

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

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:
UNITED STATES OF AMERICA, : Criminal Action No.
:
versus : 1:20-cr-142
:
MELVIN PALMA FLORES, : December 15, 2021
:
Defendant. : Volume III of IV
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The above-entitled Jury Trial was heard before the
Honorable Rossie D. Alston, Jr., United States District Judge

A P P E A R A N C E S

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P R O C E E D I N G

(Court proceedings commenced at 10:04 a.m.)

THE COURT: Back on the record. The United States of America versus Melvin Palma Flores. Representatives from the government are present. Mr. Jenkins is present along with Mr. Melvin Palma Flores.

The Court adopts, by reference, the statement it has made at the beginning of the trial regarding the steps taken to deal with the circumstances we're all facing through the pandemic.

Is there anything we need to do before we bring the jury in?

MR. JENKINS: I'll go ahead and raise it.

MR. BEN'ARY: Okay, go ahead.

MR. JENKINS: Yes, Your Honor. May it please the Court, Your Honor. Robert Jenkins on behalf of the defendant, Mr. Melvin Palma Flores. Your Honor, this morning I anticipate that the defense will present the testimony of Mr. Melvin Palma Flores in his own defense. And in doing so, Your Honor, we intend to offer a piece of evidence which I suspect the government would object, and I believe that the Court would appreciate us resolving this issue prior to Mr. Palma Flores beginning his testimony.

Your Honor, the evidence specifically would be a letter, a handwritten letter, in which Mr. Palma Flores was --

1 would testify was received by him while he was detained at the
2 Fairfax Adult Detention Center as a consequence of his arrest
3 for the allegations which the Court has heard some testimony
4 about from Ms. Sheehy as well as Detective Wallace about a
5 certain domestic assault situation that occurred, I believe,
6 in December 2019. And shortly after his detention there he
7 received this letter from Ms. Sheehy which does two things,
8 Your Honor.

9 Number one, throughout the letter -- and we do have
10 copies for the Court -- Ms. Sheehy is explaining why she's
11 upset with the defendant, the many things that the defendant
12 has done to anger her. But most significantly, Your Honor, in
13 the letter she goes on to talk about how the charges that have
14 been placed against the defendant -- and we believe she was
15 referring to those domestic assault charges -- are false --
16 I'm sorry, Your Honor.

17 This is -- the defendant was not detained at the
18 Fairfax Adult Detention Center but the Alexandria Detention
19 Center when he received this letter, so I am corrected.
20 Nevertheless, Your Honor, in the letter she also indicates
21 that the charges against the defendant are false and that she
22 was threatened with the same being done to her, that is, we
23 would infer false charges being placed against her.

24 THE COURT: Let me interrupt you and just make sure
25 I have the context of everything. I'm assuming from what

1 you're saying, and again correct me if I'm wrong, that this is
2 not something that was in the possession of the government so,
3 therefore, it's exculpatory. You're not suggesting that, are
4 you?

5 MR. JENKINS: I'm not suggesting that at all, Your
6 Honor. In fact, I have every reason to believe that the
7 government just learned of its existence this morning when I
8 made the disclosure to them about it.

9 THE COURT: Okay.

10 MR. JENKINS: In the letter, Your Honor, as I said,
11 because she suggests -- or it says that the charges against
12 Mr. Palma Flores are false, and that she was threatened with
13 the same. We believe the -- the proper interpretation is
14 false charges being placed against her. The Court may recall
15 that Detective Wallace was asked on cross-examination -- well,
16 on redirect as to whether or not she had coerced Ms. Sheehy
17 into making the disclosures to her concerning Mr. Palma
18 Flores' alleged criminal conduct, and Detective Wallace denied
19 doing so.

20 The Court may also recall that in Government
21 Exhibit 34, the purported letter from Mr. Palma Flores to
22 Ms. Sheehy -- in that very same letter he suggests that she
23 testify that, in fact, she was coerced by Detective Wallace.

24 THE COURT: When did you get this letter?

25 MR. JENKINS: Your Honor, I became aware of the

1 letter this morning.

2 THE COURT: Okay. Another problem that's raised --
3 and again I'm going to hear from the government, but another
4 problem that's raised is that, I would assume based upon your
5 competence and ability, that if you had known about this
6 letter, you would have used it in some way to --

7 MR. JENKINS: I would have confronted Ms. Sheehy and
8 I would have also --

9 THE COURT: -- confront her and challenge her?

10 MR. JENKINS: Yes.

11 THE COURT: Again, this is why I'm thankful that I
12 take good notes. Now, Ms. Sheehy is compromised -- Sheehy, I
13 believe, is the correct pronunciation -- is compromised
14 because she came back in the courtroom yesterday and I made a
15 note of it and listened to part of the trial, which is a
16 violation of the rule against witnesses.

17 MR. JENKINS: That is absolutely true, Your Honor,
18 as I understand it based on what the Court shared with us on
19 yesterday. And the Court is correct, that if I was in a
20 position to do so, I would have found this to be useful.

21 THE COURT: Yes, sir.

22 MR. JENKINS: In my cross-examination of Ms. Sheehy
23 and perhaps even Detective Wallace. But, nevertheless, I
24 wasn't in a position to do so. But now that it has been
25 shared with me, Your Honor, certainly Brady would have

1 obligated the government, if it had it, to share it with me.

2 They didn't have it.

3 THE COURT: Right.

4 MR. JENKINS: But the law still is clear that the
5 defendant has a right to present favorable evidence.

6 Now, I know that the timing of it should give the
7 Court concern, and I'm certain the government is going to
8 raise some other evidentiary rule challenges to it also. But
9 I think that this is a very significant piece of evidence and
10 that the Court could first permit Mr. Palma Flores to testify
11 about. He certainly, I believe, can testify he's familiar
12 with Ms. Sheehy's writing. He can testify as to whether or
13 not it's his opinion whether or not it is hers, whether or not
14 he received it, and the contents of the letter and his
15 understanding of what is in it. And the jury can certainly
16 give what weight to it as it sees fit.

17 If the Court is concerned or troubled by the fact
18 that ordinarily it would be proper for me to confront
19 Ms. Sheehy about what is purported in this letter and give her
20 an opportunity to either embrace it or deny it. Then on
21 behalf of Mr. Palma Flores, I would ask that the Court permit
22 us to recall Ms. Sheehy for that limited purpose.

23 The Court has already expressed some concerns given
24 her violation of the rule on witnesses. And in response to
25 that, I would ask that the Court then consider declaring a

1 mistrial in this matter so that once again --

2 THE COURT: Let me stop you there. This is your
3 client. Again, I'm not assessing any blame to you whatsoever,
4 Mr. Jenkins. You know how much I respect your work. But your
5 client needs to understand that this is not trial by ambush.
6 If he has something that's helpful to his case, he has a
7 responsibility if he wants to help his case, to let you know
8 about it in a timely fashion so that we can conduct a
9 litigation. And he can't, on the back end, present something
10 to you that is critical, from his perspective, to his case and
11 then if I don't allow it claim that he's entitled to a
12 mistrial. He's approbating and reprobating. He's suggesting
13 that we do one thing, holds back on something, and then wants
14 a remedy because of something that he did.

15 MR. JENKINS: And I certainly appreciate that, Your
16 Honor. Without revealing any confidence, let me suggest this
17 to the Court -- or offer this to the Court. It is certainly
18 conceivable to me that Mr. Palma Flores did not understand the
19 import of the contents of this letter until such time that
20 Ms. Sheehy and Detective Wallace both had testified.

21 THE COURT: I would have to think that he's very
22 unsophisticated if he does not understand the significance of
23 having a letter, which is contrary to the testimony of a key
24 witness in the government's case.

25 MR. JENKINS: I certainly understand that, Your

1 Honor. And then the second thing that I would offer is that
2 certainly Mr. Palma Flores was confronted, since last evening,
3 with a very important decision about whether or not to
4 exercise his right to testify under the Fifth Amendment. And
5 in preparation for doing so, I certainly can imagine that
6 Mr. Palma Flores took it upon himself to try to review
7 everything that might be in his possession that could be
8 helpful or useful in his own testimony. And he's not a
9 lawyer, so he may not have understood the evidentiary of
10 limitations on how something like this letter could be used
11 and also the rules governing --

12 THE COURT: Again, Mr. Jenkins -- and the trouble
13 that the Court has is simple. The government's case is part
14 circumstantial and part direct. A critical part of the
15 government's case is the testimony of Ms. Sheehy.

16 MR. JENKINS: Yes.

17 THE COURT: And I am sure, based upon your level of
18 preparation and your discussions with him, you had some idea
19 of the significance of the testimony of Ms. Sheehy. And it
20 would seem to me to be reasonable is that if your client is in
21 possession of a document, which theoretically or potentially
22 undermines the testimony of a critical witness of the
23 government, that he would have at least made you aware of it.

24 MR. JENKINS: And I understand that, Your Honor, and
25 I would just query this. If -- you know, if it was through

1 either a woeful act or if it was just negligence or just the
2 fact that he just didn't recognize its import, I think the
3 focus of the Court should be is it weighty enough? Is it
4 significant enough to impact the credibility of the key
5 witness in this case? I would submit such that the jury
6 should be denied its benefit. And I just would suggest to the
7 Court that it is of such significance that it calls for
8 extraordinary steps to ensure that this young man has every
9 opportunity to present favorable evidence in his defense to
10 this jury, which is going to make the ultimate call as to
11 whether or not this Court is going to be empowered to sentence
12 this young man to as much as life in prison without the
13 possibility of parole. So I would ask the Court to give due
14 consideration to it in light of the gravity of the moment.

15 MR. BEN'ARY: Your Honor, thank you. Let me begin
16 by just giving the Court a little bit of context. I'm trying
17 to digest this letter as well, but as best I can tell, there's
18 one line that's relevant in here and it says: "They put all
19 those false charges on you and wanted to do the same to me."
20 That's it. It doesn't say what charges, it doesn't say why
21 they're false, it doesn't say who put the false charges --

22 THE COURT: Somebody hand up the letter so that I
23 can have a look at it.

24 MR. BEN'ARY: It doesn't say who put the false
25 charges on. So it is -- it is of such slate probative value,

1 Your Honor, that I would suggest that it is -- it should not
2 be admitted. And here are the basis for not admitting the
3 letter, and the line I'm focusing on is the bottom of the
4 first page there.

5 The first reason that this should not be admitted,
6 Your Honor, is because it is clearly in violation of the
7 Court's discovery order. The government has taken great steps
8 over months, years to provide the defense with access to
9 information, objects, letters in its possession that would be
10 part of its case. The Court's discovery order requires
11 reciprocal discovery on that. I'm not blaming Mr. Jenkins. I
12 understand he just got it this morning, but it's in his
13 client's possession, should be deemed in the possession of the
14 defense, and we have not been given access to it. So
15 accepting it into evidence would be a violation of the
16 discovery order and should not be admissible on that basis.

17 The better argument, Your Honor, is I think that
18 there are rules about examining a witness and impeaching a
19 witness with that witness's prior statement. The letter that
20 you have in front of you is extrinsic evidence of a prior
21 inconsistent statement. Rule 613, Federal Rules of Evidence,
22 (b), sets forth the rules for using extrinsic evidence of a
23 prior inconsistent statement. And it says, "Extrinsic
24 evidence of a witness's prior inconsistent statement is
25 admissible only if the witness is given an opportunity to

1 explain or deny the statement, and an adverse party is given
2 an opportunity to examine the witness about it."

3 Ms. Sheehy was not given the opportunity to explain
4 or deny the statement. She is no longer a witness in the
5 case. She was released. She is not -- she has been released
6 from subpoena. She is not here. And even if she were here,
7 she has been in violation of the rule on witnesses. So the
8 rules of evidence do not permit the introduction of this
9 prior -- this extrinsic evidence of Ms. Sheehy's prior
10 inconsistent statement. And given the extremely slight
11 evidentiary value of this letter, I would submit that there is
12 no cause for the Court to go against the Federal Rules of
13 Evidence and allow its admission at this point in the game.

14 THE COURT: All right, sir. Let me take a moment,
15 Mr. Jenkins, to read the letter.

16 MR. JENKINS: Yes, Your Honor.

17 (A pause in the proceedings.)

18 THE COURT: Okay. Mr. Jenkins.

19 MR. JENKINS: Yes, Your Honor. Your Honor, I would
20 like the opportunity just to respond to the government's
21 points. First and foremost, I think that the letter is -- it
22 s value goes beyond simply the one line making references
23 about the false charges. In the beginning of the letter, Your
24 Honor, the writer says, "Your dad knew me and Katie had court
25 and I asked him to help us get advice from a lawyer because

1 they wasn't treating us fairly."

2 Mr. Palma Flores would testify that, as the
3 government has adduced throughout the course of this trial,
4 with respect to Government's Exhibit 34 and 35, that these two
5 individuals, when exchanging letters, often used code words
6 and names to suggest other individuals that they did not want
7 others to know who they were talking about.

8 Mr. Palma Flores would talk about -- would testify
9 that the "Katie" referenced in this sentence is actually
10 Mr. Kollin Worlds who testified, who the Court, I'm sure, can
11 appreciate the defense in this case is that there were three
12 people in the car outside of Mr. Brown's apartment complex.
13 One got out, committed the shooting, and then the three
14 departed.

15 The government maintains that the individual who did
16 that was Mr. Palma Flores, while we maintain it was Mr. Kollin
17 Worlds. And that when the writer indicates that "Katie,"
18 again, Kollin Worlds, and her had court, she's referring to
19 engagements or meeting with law enforcement, and that
20 "they" that were not treating them fairly is law enforcement.
21 And that she's upset that the defendant, while getting himself
22 proper legal counsel, was not taking any steps to ensure that
23 they also had proper legal counsel. So it not only goes to
24 the coercion issue --

25 THE COURT: Hold on, Mr. Jenkins.

1 Ladies and gentlemen, you need to make a decision as
2 to whether you're going to be in the courtroom or not be in
3 the courtroom. We cannot have you interrupting the process as
4 we're going through it this morning, or at any other time
5 during the course of this proceeding. So if you're going to
6 make a decision to be in here, you're expected to stay in here
7 unless there is an emergency until we take a break.

8 Thank you, Mr. Jenkins.

9 MR. JENKINS: Thank you, Your Honor.

10 So I think that's an important part of the case --
11 excuse me, of the letter. Also, because again our defense
12 theory is that Ms. Sheehy and Mr. Worlds were coordinating
13 their efforts to shield themselves and to blame the defendant
14 for what Mr. Worlds had did -- excuse me -- did in
15 perpetrating the offense. In the letter, she also, Your
16 Honor, goes on to talk about -- excuse me -- Court's
17 indulgence --

18 (Counsel and Defendant confers.)

19 MR. JENKINS: She goes on to the top of the second
20 page, Your Honor, and she writes, "You think I was going to
21 sit behind bars pregnant for someone who never gave a shit
22 about me?"

23 Again, Mr. Palma Flores would interpret this as
24 Ms. Sheehy telling him that she's not going to get in trouble
25 in trying to protect him or do anything that might help him if

1 that causes her any legal difficulties.

2 And so we think that the letter goes beyond just the
3 one sentence that might be favorable and just overall --
4 overall -- the Court has now had the benefit to read it in its
5 entirety. Clearly the writer of this letter is angry with the
6 person who the letter is being directed to. And we think that
7 actually goes to bias also.

8 So we believe --

9 THE COURT: All those things -- and again
10 Mr. Jenkins, all of those things are very good points, but the
11 timing of it is what is problematic for the Court. You
12 weren't given the opportunity to conduct the proper
13 cross-examination of Ms. Sheehy because your client made the
14 decision to not give you information which was advantageous to
15 his case. This isn't something where we can sort of say,
16 well, how can anybody understand that this would be
17 advantageous. This is pretty simple. This is evidence that's
18 critical -- allegedly, critical to the testimony of a
19 significant witness of the government. And now we have a
20 situation where you're suggesting, as an advocate, that we
21 somehow get around Rule 613(b). How do we do that at this
22 point?

23 MR. JENKINS: Well, Your Honor, certainly I think
24 the remedy is to permit the defense to recall Ms. Sheehy.
25 Now, I understand the rule on witness. But, Your Honor, for

1 this limited purpose, I don't think there's any testimony that
2 she could have heard that would shape or impact her ability to
3 answer: Did you write this letter?

4 THE COURT: Let me ask you this, is Ms. Sheehy here?

5 MR. JENKINS: She is not here today. But, Your
6 Honor, this trial was scheduled, as the Court informed the
7 panel, that jury selection is for five days.

8 THE COURT: But every witness that gets on the stand
9 I specifically say, "Is this witness subject to recall?" I do
10 that every time. It's almost rote for the Court. And when I
11 asked both government and you, as representative of
12 Mr. Flores, was this witness subject to recall, every single
13 time, "No." There was not one witness that I can recall,
14 correct me if I'm wrong --

15 MR. JENKINS: That's right.

16 THE COURT: -- that was subject to recall. And now
17 with her having sat in the courtroom and heard at least a
18 portion of the trial, the fact that she was not subject to
19 recall, the fact that your client gives you something on the
20 eve of his testimony, which is, in his view, critical to his
21 case, puts the Court at a very big disadvantage and it's
22 inconsistent with the formal statement of the rule.

23 MR. JENKINS: And I certainly understand that, Your
24 Honor. But I think the purpose of the rule on witness is to
25 prevent a witness's testimony from being colored by hearing

1 other testimony in the case. And if she was going to be
2 examined by the defense on any issue or any testimony that she
3 may have overheard, I would appreciate why the rule needs to
4 be strictly enforced. But that's not the situation we are
5 confronted with here today. She's simply -- in order to
6 comply with the rule -- be given the opportunity to be
7 confronted with the letter. She can say I wrote the letter,
8 or I didn't write the letter. I think her examination would
9 be very limited in scope, Your Honor. And once she's had the
10 opportunity to do so, depending on what her answer is, I think
11 even the government may concede, depending on what her answer
12 is, that then Mr. Flores can have the letter introduced either
13 through her or through his own testimony.

14 THE COURT: She was in the courtroom, not through
15 some arguably extraneous witness. She was in the courtroom
16 during the testimony of Detective Melissa Wallace who is the
17 case agent in the case.

18 MR. BEN'ARY: And can I just add one point on
19 contact with other people involved in the trial? According to
20 the Alexandria Sheriff's Department, Mr. Palma, the defendant,
21 and Ms. Sheehy spent over an hour on the phone last night. I
22 don't see how she's recalled at this point. This is a
23 situation caused by the defendant. It will open up a whole
24 can of worms. Ms. Sheehy sent a series of text messages to
25 Detective Wallace last night as well claiming she can't

1 believe Mr. Palma is going to trial, saying that he is guilty.
2 She can't believe he's blaming it on Kollin. And, you know,
3 are we going to then reopen our case in rebuttal to put that
4 all in. It's just opening up a whole can of worms for a
5 letter that has essentially severely limited probative value
6 and it would be in violation of the rules of evidence.

7 THE COURT: Okay.

8 I'll give you the last word, Mr. Jenkins.

9 MR. JENKINS: I'm sorry, Your Honor?

10 THE COURT: I'll give you the last word, sir.

11 MR. JENKINS: Your Honor, I don't think I have
12 anything further to add. I think the Court understands the
13 position. I do concede that it would -- introduction of the
14 letter at this point would be contrary to the rule, but we do
15 believe that there is a remedy available to the Court, albeit
16 an extraordinary one. But in light of the significance of the
17 matter, we would ask the Court to exercise its discretion.

18 THE COURT: All right. The Court believes that
19 based upon the circumstances outlined, which have previously
20 been articulated that apparently Mr. Palma Flores presented
21 this significant letter to his lawyer at -- on the eve of the
22 last day of trial and the application of Rule 613(b) and the
23 fact the Court made a specific record of finding that
24 Ms. Laila Sheehy was in the courtroom from approximately 2:35
25 to 2:43 during the testimony of Detective Melissa Wallace, and

1 that there are other extraneous matter, which also give the
2 Court great concern and that in the exercise of discretion, it
3 is not going to allow the admissibility of this particular
4 letter.

5 Mr. Jenkins, I note your exceptions.

6 MR. JENKINS: Your Honor, will the letter, for
7 appellate purposes, be made a part of the record?

8 THE COURT: I'll have the deputy clerk mark it and
9 then I will make a record of denying to its admissibility.

10 MR. JENKINS: Thank you, Your Honor.

11 THE COURT: All right.

12 Mr. Palma -- I'm sorry. I'll let you have a moment
13 with your lawyer.

14 MR. JENKINS: Thank you, Your Honor.

15 (Counsel and Defendant confers.)

16 MR. JENKINS: Your Honor, Mr. Palma Flores is
17 prepared to address the Court.

18 THE COURT: All right. First, give me some sort of
19 context.

20 MR. JENKINS: Your Honor, Mr. Palma Flores -- in
21 fact, if --

22 You can have a seat.

23 I would just proffer, if I may, Your Honor, proffer
24 this to the Court, that Mr. Palma Flores wanted the Court to
25 understand and appreciate that it was not intentional on his

1 part to withhold the letter and his timing of when he chose to
2 disclose it to his counsel. It was truly because he did not
3 appreciate its significance. He certainly heard the Court's
4 view on that and opinion of that. But he also would want the
5 Court to know that in the last two years he's received many
6 letters from Ms. Sheehy and others, and he simply forgot that
7 he had some of these letters. And it was truly out of his
8 concern in preparation for the presentation of his own
9 testimony here today that he took the opportunity last night
10 to go through all of his personal effects so he could refresh
11 his recollection about certain events that had transpired over
12 the last two years that have been testified in the court
13 during the course of this trial.

14 And it is only through that that he then discovered
15 the letter was in his possession and thought that it would be
16 prudent to make his attorney aware of it.

17 THE COURT: All right. As long as your client is
18 going to say just what you said, I don't think I need to
19 specifically hear from him. I will make that statement or
20 representation that you made a part of the record. I don't
21 want to get into another constitutional situation by allowing
22 him to address the Court without the benefit of the government
23 having an opportunity to confront him on that. So there are a
24 lot of issues that we're spending a lot of constitutional
25 implications of that, but unless he's going to say something

1 significantly different from what you proffered to the Court,
2 I choose not to hear from him.

3 MR. JENKINS: Thank you, Your Honor. If I could
4 just confer.

5 THE COURT: Yes, sir.

6 (Counsel and Defendant confers.)

7 MR. JENKINS: Then the only last piece of item to
8 address prior to the jury being brought in, Mr. Palma Flores
9 has advised me that while he understands his right to testify
10 pursuant to the Fifth Amendment, that he is going to waive
11 that right and not testify here today. He would simply ask
12 that the Court mark one exhibit, which the government does not
13 object to being marked as a defense exhibit and its admission.
14 And that will be a photograph, that is, of Mr. Kollin Worlds
15 in the possession of a handgun. We believe that it is a part
16 of the Government's Exhibit 48A, but out of an abundance of
17 caution we would ask that this photograph be marked and
18 admitted into evidence.

19 THE COURT: Without objection?

20 MR. BEN'ARY: Without objection, Your Honor.

21 THE COURT: All right. 48A. Let's do it this way.
22 Is it a defense exhibit or a government exhibit?

23 MR. BEN'ARY: So this exhibit is marked Defendant's
24 Exhibit 1. It's part -- we believe, Mr. Jenkins has
25 represented that it's part of Mr. Worlds's Snapchat account,

1 which is in evidence as 48A, but it would be helpful, I mean,
2 it's got thousands --

3 THE COURT: Let's mark it -- I think the best way to
4 do it is to mark it as Defense Exhibit No. 1.

5 Without objection?

6 MR. BEN'ARY: Without objection.

7 (Defendant's Exhibit No. 1 admitted into evidence.)

8 THE COURT: Let's do this one as 1 and that one as
9 2. The first one is the letter that I've denied is 1, so that
10 will be 2.

11 MR. JENKINS: Your Honor, I apologize on behalf of
12 Mr. Palma Flores, and I ask the Court just to be mindful of
13 his age and his inexperience with these types of matters, but
14 he has appealed upon me to request if the Court would afford
15 him a ten-minute recess so that he could confer with counsel
16 so that he could be absolutely certain about his waiver of his
17 right to testify.

18 THE COURT: I don't have any problem with that at
19 all. We'll go ahead and accommodate that. Let me ask this.
20 There are no people in here. If we were to go into recess,
21 where would Mr. Palma Flores go?

22 THE MARSHAL: We can keep him in here.

23 THE COURT: I'm going to go ahead and clear the
24 courtroom.

25 Let Mr. Jenkins hear what I'm going to do.

1 I'm going to go ahead and clear the courtroom. I'll
2 let you have an opportunity, Mr. Jenkins, to confer with
3 Mr. Palma Flores, and then we're going to come back here at
4 10:45.

5 So ladies and gentlemen, there is some information
6 and circumstances that dictate that I clear the courtroom at
7 this time, so that Mr. Jenkins can have an opportunity to
8 confer with his client. We will be back in session at 10:45.
9 If you could please step out. Thank you.

10 THE BAILIFF: All rise. This court stands adjourned
11 until 10:45.

12 (Recess.)

13 (Court proceedings resumed at 10:49 a.m.)

14 THE COURT: We're back on the record of United
15 States of America versus Melvin Palma Flores.

16 Mr. Jenkins, have you had an opportunity to counsel
17 with your client?

18 MR. JENKINS: I have, Your Honor. And Mr. Palma
19 Flores wishes to exercise his Fifth Amendment right to
20 testify.

21 THE COURT: Yes, sir. That's entirely his right.

22 Mr. Palma Flores, I'm going to ask you a few
23 questions with regard to your decision. I know the answers to
24 many of these questions. Did you have an opportunity to
25 discuss with Mr. Jenkins your decision to testify or not

1 testify in this case?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Okay. And after discussions with
4 Mr. Jenkins, did he provide you the circumstances in outlining
5 the implications of your decision to testify including the
6 ability of the government to cross-examine you? Has he
7 discussed that with you?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Did you have any questions that you
10 asked Mr. Jenkins that he was unable to answer with regard to
11 you exercising your Fifth Amendment right to testify?

12 THE DEFENDANT: I'm sorry, Your Honor, but, you
13 know, I really thought I was going to have more time, you
14 know. So I don't think I had enough time to prepare for this.

15 THE COURT: Okay. Mr. Palma Flores, as your counsel
16 has previously indicated, this case has been pending for, I
17 believe, over a year or two. And I know that Mr. Jenkins is a
18 very well-respected officer of the Court and has taken the
19 time that he needs to take with you to make sure that you were
20 both prepared for trial today and knew the implications of all
21 the circumstances associated with any decision that you made
22 during the course of this trial.

23 I'll ask you one final question, sir. Is it your
24 voluntary decision -- in other words, is anyone forcing you to
25 testify today?

1 THE DEFENDANT: No, Your Honor.

2 THE COURT: All right, Sir. Do you have any
3 additional questions that you want to ask the Court related to
4 your decision to testify?

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: Is the government satisfied with the
7 colloquy that the Court exercised with Mr. Flores?

8 MR. BEN'ARY: Oh, yes, Your Honor.

9 THE COURT: Mr. Jenkins, are you, sir?

10 MR. JENKINS: I am, Your Honor.

11 (Counsel and Defendant confers.)

12 THE COURT: All right. Counsel, there's a few
13 little cleanup things that we need to do with the instructions
14 prior to Mr. Palma Flores taking the stand.

15 I'm going to deal with the easy one first. During
16 the course of a trial, I may ask a question of a witness. I
17 don't think that that has any application unless something
18 happens unusual with regard to Mr. Palma Flores.

19 Do we agree that that one can be removed?

20 MR. BEN'ARY: Yes.

21 MR. JENKINS: Agreed, Your Honor.

22 THE COURT: All right. And then there's Y,
23 credibility to immunize witnesses. What we have done with
24 that is insert the names Elijah Kyle-Canady and Kollin Worlds
25 into "the name of individuals."

1 Satisfied with that?

2 MR. JENKINS: Yes, Your Honor.

3 THE COURT: Very good. The next one is FF. I
4 believe it's -- affect the defendant's decision not to testify
5 since Mr. Palma Flores is exercising his right, that would not
6 be appropriate to give at this point.

7 Do we agree?

8 MR. BEN'ARY: Agreed.

9 MR. JENKINS: Agreed, Your Honor.

10 THE COURT: All right. That will be removed. And
11 finally, was there some sort of resolution on ZZ?

12 MR. JENKINS: Yes, Your Honor.

13 MR. BEN'ARY: So we, I think, had e-mailed it this
14 morning, Your Honor. We are in agreement that it actually
15 becomes two instructions, ZZ-1 and ZZ-2. It provides the
16 elements of 924(j) and then a definition of murder. And then
17 it is read in connection with the definitions previously
18 offered for malice and premeditation.

19 THE COURT: All right. Marlon, this morning I was
20 made aware of that, and I directed that it be inserted and
21 reinserted at the proper place.

22 MR. BEN'ARY: And not to add to the workload, but it
23 looks like in the last line of ZZ-2, it should read "presence
24 or absence of premeditation" instead of "presence or absence
25 or premeditation."

1 THE COURT: Counsel, I'm going to use my black
2 pen -- or actually it's a blue pen and just make the R an F.

3 Does anyone have any problem with that?

4 MR. JENKINS: No objection.

5 MR. BEN'ARY: No objection.

6 THE COURT: Very good. All right. My suggestion is
7 this, when we come back in, since Mr. Melvin Palma Flores has
8 exercised his right to testify --

9 Mr. Jenkins, I think the first thing that, maybe,
10 you want to do -- you can do it another way if you choose
11 to -- is offer Defendant's Exhibit No. 2, which has been
12 admitted.

13 MR. JENKINS: Yes, Your Honor.

14 THE COURT: That way the jury will be aware that
15 that has become part of the court record.

16 MR. JENKINS: Yes, Your Honor.

17 THE COURT: And, Trish, make sure -- make sure that
18 that No. 1 does not go back. You can put it in a separate
19 folder, I don't care, but just make sure it's not with the
20 rest of the stuff.

21 All right. We ready to bring the jury back in?

22 MR. JENKINS: Yes, Your Honor.

23 MR. BEN'ARY: One just very brief housekeeping
24 matter, Your Honor. Yesterday the Court made a note that it
25 was the Court's observation that Hector Flores came back into

1 the courtroom. And I don't think that it will have any legal
2 significance, but I think that it actually was not Hector
3 Flores.

4 THE COURT: Someone that maybe looked like him?

5 MR. BEN'ARY: There's another individual -- it's
6 difficult with the mask -- with a similar stature and
7 hairstyle.

8 THE COURT: But we all agree that Ms. Sheehy came
9 back in?

10 MR. BEN'ARY: Yes, Your Honor.

11 THE COURT: Very good. Actually, it's easier to
12 identify Ms. Sheehy, because she was the individual who came
13 in without a mask on and I noticed that right over there to
14 the left.

15 Very good. Ms. Tinsley.

16 Ladies and gentlemen, as the jury comes back in, I'm
17 going to ask that if you need to be in the courtroom, or want
18 to be in the courtroom, this is your time to be here. We're
19 not going to be getting up and walking out during the course
20 of the litigation. So you need to stay in here until we take
21 a break.

22 (Jury present.)

23 THE COURT: All right. You may have a seat, ladies
24 and gentlemen, in the gallery.

25 Good morning, ladies and gentlemen. It's okay to

1 speak back, there's no rule against that. Glad to have you
2 all back here today. We are heading into day three. Please
3 be assured that during the time that you were not brought into
4 the courtroom, we were in here working on things that you need
5 not concern yourself with. So it wasn't that, necessarily,
6 we're running late, but we had to take care of some matters
7 before we brought you back in. Have all of you been able to
8 live up to the Court's instruction not to discuss the case or
9 any aspect of the case with anyone?

10 Very good. Thank you, ladies and gentlemen.

11 The prosecution has rested its case.

12 Now, Mr. Jenkins.

13 MR. JENKINS: Thank you, Your Honor. Your Honor,
14 may it please the Court, the defense would call Mr. Melvin
15 Palma Flores.

16 THE COURT: Come on up, sir.

17 (Defendant's witness, Melvin Palma Flores, was sworn.)

18 (Witness seated.)

19 THE COURT: You may take the stand, sir. As has
20 been the case throughout the proceeding, you have been
21 unmasked. You're free to testify without the mask on at this
22 point, sir.

23 MR. JENKINS: May counsel proceed, Your Honor?

24 THE COURT: You may.

25 MR. JENKINS: Thank you.

DIRECT EXAMINATION

BY MR. JENKINS:

Q. Good morning, Mr. Palma Flores.

A. Good morning.

Q. Do you prefer Mr. Palma Flores or Mr. Flores?

A. Palma Flores is fine.

Q. Mr. Palma Flores, how old are you?

A. 20 years old.

Q. Back in October of 2019, how old were you?

A. I just turned -- well, my birthday is in October --
October 17. So are we talking before the 17 or after the 17?

Q. After the 17th.

A. I just turned 18 years old.

Q. You just turned 18 years old?

A. That's correct.

Q. And where were you residing at that time?

A. Alexandria, Virginia.

Q. And what were you doing to earn a living during that
period of time?

A. I sold marijuana.

Q. Can you give us a sense of the scale of your sales of
marijuana?

A. Probably like -- like, at one time or overall are we
talking?

Q. Typically, in an average week.

1 A. Rough estimate probably, like, 4 ounces, maybe.

2 Q. How much money were you earning on a weekly basis from
3 selling marijuana?

4 A. On a good week, probably like \$3,000.

5 Q. Did you own any firearms?

6 A. At the beginning, I didn't. But once I seen, like, a lot
7 of my close friends were, like, getting, you know, robbed --
8 and sometimes it wasn't even just, like, you know, snatch and
9 grab, more so, like, at gunpoint, you know. I started to get
10 scared. And I'm, like, you know, I think I'm going to need a
11 firearm, but it's not like I always throughout the whole
12 career of selling marijuana I used to carry a firearm.

13 Q. Okay. I'm going to need you to keep your voice up, okay?

14 A. Okay.

15 Q. I want to take you back to October the 25th, 2019. Do
16 you recall the events of that day?

17 A. Yes. Yes, I do.

18 Q. Earlier in the day, where were you?

19 A. I was at my house, which is my mother's house.

20 Q. Did there come a time in which someone contacted you
21 about purchasing marijuana?

22 A. Um, yes. Qwa texted me and said he had a friend that
23 wanted to buy some marijuana, if I was going to be able to
24 give him some.

25 Q. The "Qwa" that you just referred to, is that Mr. Brown?

1 A. That's correct.

2 Q. The decedent in this case?

3 A. That's correct.

4 Q. How long had you known Qwa Brown?

5 A. Probably, the first time we met, I was probably about 14
6 or 15. I can't remember exactly.

7 Q. So at that point in time, is it safe to say you knew him
8 about four or five years?

9 A. Yes.

10 Q. Okay. And what was the nature of your relationship with
11 Mr. Brown?

12 A. I mean, he would buy marijuana from me. Sometimes we
13 would smoke together, you know. Just, you know, good friends.

14 Q. You considered him a friend?

15 A. Correct.

16 Q. After you got this call from him on October 25th, what
17 happened?

18 A. He said a friend of his was going to come and get some
19 marijuana if I was willing to give him the marijuana. I said
20 "yes" as long as he actually knows him and that's a friend of
21 his. He said, "Yeah, that's a friend of mine." I said,
22 "Okay."

23 Q. Where was the exchange to take place?

24 A. At my house.

25 Q. Did there come a time in which someone arrived at your

1 house after having this conversation with Mr. Brown?

2 A. Yes.

3 Q. Okay. Who arrived at your house?

4 A. I knew the other person as Charles, I don't know his last
5 name or nothing like that. But the second individual was
6 Elijah, the person that testified on the first day of my
7 trial.

8 Q. And the two of them showed up at your house?

9 A. Correct.

10 Q. Did you see how they arrived at your house?

11 A. Um, they -- it was like -- I don't know -- I don't know
12 how to explain it, but it's just once I seen them coming into
13 my backyard -- I was in my living room. I was playing video
14 games with my friend, and then I seen two people, like, walk
15 into my front yard, going towards the back, and I'm like "What
16 the hell is that?" You know. And then, once I go to the
17 backyard, I see there's two individuals. I'm like, "Can I
18 help you guys?" And I think that's when Charles was like,
19 "Yeah, I'm here for the marijuana."

20 Q. And did you sell Charles a quantity of marijuana?

21 A. I was supposed to, but once I brought it out, he just,
22 you know -- he seen it, he's like, "Okay. This is the ounce?"
23 I was like, "Yeah." And then he just ran with it.

24 Q. It was an ounce of marijuana?

25 A. Correct.

1 Q. What was the amount that you intended to sell that ounce
2 of marijuana to Charles for, if you recall?

3 A. It's been two years, so maybe like 300 to \$600, I can't
4 really remember what was the exact price.

5 Q. But at some point in time, it's your testimony that
6 Charles grabbed the marijuana?

7 A. Correct.

8 Q. What did he do?

9 A. He just ran off with it.

10 Q. When Charles grabbed the marijuana and ran off, what did
11 the second individual, Elijah, do?

12 A. He just stood there, you know, kind of, like mean-mugging
13 me. You know, I was starting to get a little...

14 Q. Did you know Elijah?

15 A. Before that, never seen him.

16 Q. Did you know Charles before that?

17 A. Before that, never seen him.

18 Q. Now, when Elijah is standing looking at you and Charles
19 is running away, what, if anything, did you do?

20 A. Well, he just didn't stand there. He started approaching
21 me. And I was, like, "Why is this guy approaching me?" So I
22 started to get scared. And then I had a gun in my waistband,
23 so I brandished the firearm. And once he seen that, he
24 started walking away, too. Once he started walking away, I
25 just put the gun back in my waistband and I went inside.

1 Q. Do you remember what type of gun you had that day?

2 A. I'm not really -- I'm not too familiar with guns, but I
3 know it was, like, a .45-caliber, but I don't know the brand,
4 the name, the model, or anything like that.

5 Q. And once you placed the firearm back in your waistband,
6 what did Elijah do?

7 A. Like I said, he walked off.

8 Q. After this incident, did you speak with Qwa Brown?

9 A. Yeah. I called him and I was like, "Hey, you know,
10 the" -- "your friend that you sent me, you know, he" -- "he
11 took the marijuana without paying for it." And then, you
12 know, he was like, "Oh, that's messed up." You know, he
13 started telling me that he was going to look into it and stuff
14 like that.

15 Q. Keep your voice up, Mr. --

16 A. He said -- he said -- I called him. I'm like, "Hey, your
17 friend that you sent me," you know -- we say "run off."
18 That's when -- or "snatch and grab," you know, taking the
19 marijuana without paying for it. And I was explaining to him
20 what happened and he was like, "Oh, that's messed up. I
21 didn't know nothing about it," and he was going to look into
22 it. And that was the last of the conversation.

23 Q. Do you know an individual by the name of Kollin Worlds?

24 A. Yes.

25 Q. And Kollin Worlds testified on yesterday here before this

1 jury?

2 A. Yes.

3 Q. How long had you known Kollin Worlds prior to the events
4 of October 25, 2019?

5 A. (Laughing). We -- we went to the same elementary school.
6 So if I'm not mistaken, we met each other, I want to say,
7 probably third or fourth grade. I can't remember. I think,
8 if I'm not mistaken, third grade.

9 MR. JENKINS: Court's indulgence. Your Honor, if I
10 can publish to the jury at this time what has previously been
11 admitted as defense Exhibit 2.

12 THE COURT: Yes, sir.

13 BY MR. JENKINS:

14 Q. Mr. Palma Flores, can you take a look at the screen? Is
15 that the individual that you've testified to, your former
16 friend Kollin Worlds?

17 A. Yes, sir.

18 Q. And that's the same individual who testified on
19 yesterday?

20 A. Yes, sir.

21 Q. Had you seen this photograph before?

22 A. Um, besides the time he sent it to me, no.

23 Q. Tell us about that. When did you first see this
24 photograph?

25 A. It was after, you know, the --

1 Q. Was it after Mr. Brown was killed?

2 A. Yes.

3 Q. In this photograph, what is Mr. Worlds holding in his
4 hand?

5 A. It looks, like, obviously a gun.

6 Q. Did you understand it to be a gun when you received it --
7 when you received this photograph?

8 A. Yes. Because, um, it has -- it has a laser beam on it,
9 so usually that's on, you know, guns.

10 Q. Had you -- how did you receive this photograph?

11 A. He sent it to me through Snapchat.

12 Q. Had you communicated with Kollin Worlds through Snapchat
13 before?

14 A. Yes.

15 Q. Are you familiar with his Snapchat account?

16 A. Yes.

17 Q. Do you see the image that is above Mr. Worlds's head?

18 A. Yes.

19 Q. Do you recognize that?

20 A. Yeah. That's -- it's called a -- if I'm not mistaken,
21 your bit emoji [sic] is like a -- you can make a -- you could
22 say a resemblance to you, and then every time it just pops up
23 as your Snapchat account.

24 Q. Did you -- when you received this photograph, did you
25 recognize that bit emoji as being associated with Kollin

1 Worlds?

2 A. Yes.

3 Q. Now, Mr. Palma Flores, beyond being your friend, back in
4 October of 2019, did you and Mr. World [sic] have any business
5 dealings together?

6 A. As far as "business," you mean the marijuana, or just
7 business dealings in general?

8 Q. Marijuana, business dealings, you describe it.

9 A. Yeah. You know, sometimes he would borrow clothes from
10 me. Or if there was some shoes that he liked that I had, I
11 would sell them to him. Obviously, you know, I would buy
12 marijuana from him. Sometimes, you know, I would let him
13 borrow marijuana. You know, just back-and-forth relationship.

14 Q. Was there ever an occasion in which you sold marijuana
15 for him?

16 A. Yes.

17 Q. The marijuana that was taken from you on October the
18 25th, 2019, by Charles, who did that marijuana belong to?

19 A. Kollin.

20 Q. What was -- were you selling it on behalf of Kollin?

21 A. It's something that's called "fronting." Another word
22 for it is "consignment." You know, so let's say -- he would
23 be like, "Hey, I'll front you this X amount of marijuana, this
24 type of marijuana. You know, you don't got to pay me right
25 now, just sell it for me and then give me this back" -- "this

1 amount of money back and you can keep the rest."

2 Q. And after Charles took the marijuana from you, did you
3 speak with Kollin about what had occurred?

4 A. Yes.

5 Q. How did Kollin respond?

6 A. He was, basically, trying to find out who took the
7 marijuana, but since I had never seen those two individuals
8 before, it was hard to explain to him.

9 Q. Well, did you share with him how you came to be
10 introduced to these two individuals?

11 A. Yes.

12 Q. Did Kollin know that it was Mr. Brown who had made the
13 introduction?

14 A. Yes.

15 Q. And how did he respond to hearing that?

16 A. He got mad because he has another friend named Jude, and
17 I guess he was -- came to the assumption that, I guess, Qwa
18 robbed Jude, too. I don't know exactly when, but it was
19 before I got robbed.

20 Q. Mr. Palma Flores, let me stop you there. Do you recall
21 his testimony about Jude being robbed?

22 A. I don't remember.

23 Q. Well, tell us what you understood about Jude being
24 robbed?

25 A. Basically, he was supposed to sell -- I don't know how

1 many ounces to Qwa, but I know he was supposed to sell a
2 couple of ounces to Qwa, and Qwa again did a snatch and grab.

3 Q. After this occurred, what did you do next that day?

4 A. Which day?

5 Q. On October 25th?

6 A. I was with one of my friends -- Jason was at the house
7 with me, you know. I go drop him off at Edison and then I go
8 call Kollin and just explained everything that happened, and
9 he was like "Okay."

10 Q. At this point, what are you using for transportation?

11 A. My mother's van.

12 Q. Do you know an individual by the name of Laila Sheehy?

13 A. Yes.

14 Q. How do you know her?

15 A. Um, I was somewhat intimate with her.

16 Q. You were involved in a relationship with her?

17 A. We started off as friends, and then, you know, after a
18 while we became, you know, boyfriend and girlfriend.

19 Q. Do you have a child in common?

20 A. Yes.

21 Q. How old is your child?

22 A. He just turned one in September -- on September 28th.

23 Q. On October 25, 2019, did you see Ms. Sheehy?

24 A. I don't think I seen her, because if I'm not mistaken --
25 and I'm sorry, this was two years ago, so I'm trying to

1 remember.

2 Q. The day in which you were robbed.

3 A. I didn't see her that day. I seen her later on that
4 night.

5 Q. So you interpreted my question as being the daylight
6 hours. I'm talking about the entire day of October 25th, day
7 and night, did there come a time in which you saw Ms. Sheehy?

8 A. I think so.

9 Q. Around what time of day was it?

10 A. I know it was at nighttime. That's why I'm saying I
11 don't know if it was on the October 25th night leading into
12 October 26th morning, but I know I definitely seen her October
13 26th.

14 Q. What was the occasion for you to see her, how did it
15 happen?

16 A. Um, I just wanted to talk to her because, you know, we
17 were going through some things, and I just felt like I wanted
18 to vent about the situation.

19 Q. Where did you meet her?

20 A. In Kingstowne area.

21 Q. Is Kingstowne, Alexandria portion?

22 A. Yes.

23 Q. Did you and -- did you meet her at a residence or a
24 commercial place? Where did you meet her?

25 A. I met her at -- I think by her -- it was by her friend's

1 house, but not exactly at her friend's house.

2 Q. How were you communicating with her before you actually
3 met with her?

4 A. That's the thing. We stopped talking for a little bit.
5 Like, the -- our relationship is sometimes -- you know, when
6 we're on good terms, we're on good terms. We're talking --

7 MR. BEN'ARY: I'm going to object. This is not
8 responsive to the question.

9 MR. JENKINS: Well, what I want to know -- I'll
10 rephrase, Your Honor.

11 THE COURT: Thank you.

12 BY MR. JENKINS:

13 Q. Did you speak with her by text message or telephone? How
14 did you get in contact with her in order to arrange the
15 meeting?

16 A. I think I probably called her.

17 Q. Once you and Ms. Sheehy were together, was there anyone
18 else there?

19 A. Yes.

20 Q. Who?

21 A. Kollin.

22 Q. What, if anything, did you, Ms. Sheehy, and Kollin do
23 once you got together?

24 A. You know, we were -- Kollin was supposed to re-up, which
25 means buy more marijuana, and then I was supposed to -- he was

1 supposed to give me a little bit more since I didn't have any
2 more marijuana.

3 Q. Did you know -- did you know who Kollin's source of
4 supply for marijuana was at that time?

5 A. No. Because then that would be pointless. Then I
6 wouldn't have to go through him, I could just go straight to
7 the source. So people usually don't let you know who their
8 marijuana supplier is.

9 Q. At that point in time, on October 25, 2019, did you know
10 where Mr. Brown lived?

11 A. No. I never been to his house. Every time we had
12 dealings, he would come to my house or my neighborhood.

13 Q. Did there come a time in which you, Kollin, and
14 Ms. Sheehy left the Kingstowne area?

15 A. Yes.

16 Q. And where did you go?

17 A. To the Richmond Highway area.

18 Q. For what purpose?

19 A. To get more marijuana.

20 Q. Whose home were you going to get the marijuana from?

21 A. I don't know.

22 Q. Where did you go in the Kingstowne area, do you remember
23 exactly?

24 A. It was -- it was across the street from the elementary
25 school. I think -- the neighborhood is called --

1 Q. Let me have you take a look at --

2 MR. JENKINS: If I could have it pulled up,
3 Government's Exhibit 13. This has previously been admitted
4 into evidence.

5 BY MR. JENKINS:

6 Q. Mr. Palma Flores, do you remember the testimony on
7 yesterday and Monday about this exhibit?

8 A. Yes.

9 Q. Okay. Is this the location you just described for the
10 jury as to where you, Ms. Sheehy, and Mr. Kollin Worlds had
11 traveled to?

12 A. Yes.

13 Q. How did you arrive at this location -- I mean, which --
14 what vehicle?

15 A. We were in Laila's car.

16 Q. Who was driving Laila's car?

17 A. Laila.

18 Q. Where were you seated in the vehicle?

19 A. In the passenger seat.

20 Q. In the front or in the back?

21 A. In the front.

22 Q. Where was Mr. Worlds seated?

23 A. In the backseat.

24 Q. I believe you testified that you came to this location
25 with the understanding that Mr. World was going to re-up,

1 correct?

2 A. Yes, sir.

3 Q. And that is get more marijuana from his supplier,
4 correct?

5 A. That's correct, sir.

6 Q. What happened when you arrived at this location?

7 A. We basically just -- he was leading us because, you know,
8 I never been there before; but he told us to wait here, he was
9 going to go get more marijuana. He should be back, like,
10 five, ten, -- five, ten minutes tops.

11 Q. When you were in their car, at this point in time, did
12 you have your cell phone with you?

13 A. No.

14 Q. Where was your cell phone?

15 A. With Kollin.

16 Q. Did Kollin ask to use your phone?

17 A. Yeah. Because he doesn't have a phone.

18 Q. What was your understanding as to why Kollin wanted to
19 use your phone?

20 A. That way he would be able to know when the marijuana
21 dealer is outside.

22 Q. And did you permit Kollin to use your phone?

23 A. Yes.

24 Q. Did there come a time in which Kollin exited the vehicle?

25 A. Yes.

1 Q. Where did he go?

2 A. It was really dark that night, so he went to -- I was,
3 obviously -- I'm in the passenger seat, so that's the
4 right-hand side of the car. He got out through the right-hand
5 side of the car and went towards my right-hand side.

6 Q. What, if anything, do you recall happening after he got
7 out of the car?

8 A. We were waiting like 10, 15 minutes and then some shots
9 rang out.

10 Q. Prior to that, I think you heard the testimony of
11 Mr. Worlds, that he indicated that you were using your phone
12 to communicate with Mr. Brown through Mr. Kollin Worlds's
13 Snapchat, do you remember that testimony?

14 A. Yes.

15 Q. Was that true?

16 A. No.

17 Q. Did you ever log in on your phone with Mr. Kollin
18 Worlds's Snapchat? Did you ever log in to his account on your
19 phone?

20 A. No. I didn't know his password.

21 Q. After you heard the gunshots, what happened next?

22 A. Um, I got scared, because that was the first time I ever
23 heard gunshots, but I'm just looking at Laila like, "What the
24 fuck?" And a couple minutes later, Kollin is running up to
25 the car.

1 Q. You said that was the first time you heard gunshots. Is
2 that outside of a gun range?

3 MR. BEN'ARY: I'm going to object to the leading
4 nature of that question.

5 THE COURT: It was.

6 Rephrase, Mr. Jenkins.

7 MR. JENKINS: I'll rephrase.

8 BY MR. JENKINS:

9 Q. Is it true that that's the first time you ever heard a
10 gunshot?

11 A. Yes.

12 Q. And after -- after he -- did he come back to the car?

13 A. Yes.

14 Q. What happened next?

15 A. He told us to "Go, go, go, go."

16 Q. Where did you go?

17 A. We just went straight down, like, this straight road
18 ahead and then we made a left hand.

19 Q. Without you telling us what he said, did he say anything
20 to you about what had happened?

21 THE COURT: Yes or no?

22 A. Yes.

23 BY MR. JENKINS:

24 Q. When you left this area, where did you go to? Where is
25 the next place you went to?

1 A. We went back to -- so when I went to go pick up Laila, I
2 left my mom's car in that neighborhood, so we went back to the
3 Kingstowne area and I got in my mother's van, and then Laila
4 had to go home.

5 Q. Do you know someone by the name of Hector Flores?

6 A. Yes.

7 Q. How do you know Hector Flores?

8 A. He's my cousin.

9 Q. Did you see him on this evening?

10 A. Yes.

11 Q. Could you please describe for the jury the circumstances
12 under which you saw your cousin, Hector Flores, on this
13 evening?

14 A. I had to go back to Arlington because my mother works the
15 graveyard shift, so I was en route to go pick her up, but
16 Kollin wanted me to burn his clothes.

17 Q. Did you know why Kollin wanted you to burn his clothes?

18 A. At first, no. But then I got to thinking, okay, I just
19 heard gunshots, you know. He came back to the car talking
20 about "go, go, go," now he's asking me to burn his clothes;
21 and I was like either he got in a shoot-out or something
22 happened.

23 Q. Did you agree to burn his clothes?

24 A. Yes.

25 Q. Why?

- 1 A. You know, that was my friend. Like, there's nothing --
- 2 Q. Where did you go to burn his clothes?
- 3 A. To my cousin Hector.
- 4 Q. How did you contact Hector?
- 5 A. I called him.
- 6 Q. And what, if anything, did you say to Hector?
- 7 A. I said, um, "Can you come outside with a lighter?"
- 8 Q. Did he come outside with the lighter?
- 9 A. Yes.
- 10 Q. And what did you do?
- 11 A. I burned Kollin's clothes.
- 12 Q. Where was Kollin when you were burning his clothes?
- 13 A. In my mother's van.
- 14 Q. After you finished burning the clothing -- did you talk
- 15 to Hector that night about what had happened?
- 16 A. No.
- 17 Q. After you completed burning Kollin's clothes, what did
- 18 you do?
- 19 A. I went back to the van, and I went to go pick up my
- 20 mother.
- 21 Q. Was Kollin with you when you went to pick up your mother?
- 22 A. Yes.
- 23 Q. Did you actually go pick up your mother?
- 24 A. Yes.
- 25 Q. And what did you do next?

1 A. We picked my mother up and then my mother -- she said she
2 was hungry, so she took us to IHOP.

3 Q. Okay. And when you say "us," is that you and Kollin?

4 A. That's correct.

5 Q. At some point in time, did you separate from Kollin?

6 A. No. We were -- well, he came to us -- he came with us to
7 eat at IHOP, and after IHOP we went back to my house and he
8 slept over. And then we went to my friend Jason's house the
9 next morning and that's when he left.

10 Q. At that point in time, did you know that Mr. Brown had
11 been shot and killed?

12 A. While he was sleeping over, no.

13 Q. When is it that you first learned -- did there come a
14 time in which you learned that Mr. Brown had been shot and
15 killed?

16 A. When -- I'm going through social media and they're
17 saying, "Rest in peace, Qwa." And I was like that's -- that's
18 weird, like, I was just talking to him.

19 Q. How -- well, when was that? How soon was -- how close in
20 time was that to when you had had this situation where you
21 heard the gunshots? Was it the same day, was it the next day,
22 when was it?

23 A. It was the -- it was a couple hours after that. So it
24 was the same day on the 26th.

25 Q. Now, at some point in time, were you contacted by

1 Detective Wallace?

2 A. Yes.

3 Q. And when were you contacted by Detective Wallace?

4 A. I can't remember off the top of my head, but --

5 Q. Was it near in time when the shooting had occurred?

6 A. Yes.

7 Q. Did you agree to meet with Detective Wallace?

8 A. Yes.

9 Q. Did you agree to speak with her?

10 A. Yes.

11 Q. Did she explain to you that you had a right not to speak
12 with her?

13 A. No.

14 Q. Did she ask you about your whereabouts the night that
15 Mr. Brown was shot?

16 A. Yes.

17 Q. What, if anything, did you tell her?

18 A. I told her I was home with my sister.

19 Q. Was that true?

20 A. No.

21 Q. Why did you lie?

22 A. Um, I'm afraid of the police.

23 Q. Mr. Palma Flores, after speaking with Detective
24 Wallace -- at this point in time, when you spoke with
25 Detective Wallace, were you and Ms. Sheehy in a good place in

1 your relationship or a bad place?

2 A. I would say somewhere in the middle. It wasn't good nor
3 bad; we was trying to repair our relationship.

4 Q. I want to take you now to December of 2019. You've heard
5 some testimony from Ms. Sheehy that there was a domestic
6 incident between the two of you; do you remember that
7 testimony?

8 A. Correct.

9 Q. Do you remember the events leading up to that?

10 A. Yes.

11 Q. Can you tell the ladies and gentlemen of the jury what
12 happened in December of 2019 between you and Ms. Sheehy?

13 A. So I wake up -- I was sleeping and then I wake up out of
14 nowhere because my phone is constantly ringing. And I look at
15 it and it's Laila. I pick up the phone, I'm like "Hello" and
16 she's like "Hey." She was working at Motel 6. She like, "I'm
17 about to have a lunch break. I'm about to come over because I
18 need to talk to you." And the -- the tone in her voice, she
19 sounded like -- like it was up to no good. It was a storm
20 brewing, like.

21 Q. She was to come over to your house?

22 A. Correct.

23 Q. To your mother's house?

24 A. Correct.

25 Q. Did she come over to your mother's house?

1 A. Yes.

2 Q. Did you -- well, what happened when she got over?

3 A. She said, "Let me see your phone. Let me see your
4 phone." I was like, "For what?" She like, "Oh, I know
5 you" -- "you're talking to that bitch again."

6 Q. She was accusing you of being unfaithful?

7 A. Correct.

8 Q. Is this the first time she had ever accused you of being
9 unfaithful?

10 A. No.

11 Q. What happened?

12 A. I gave her the phone. She starts going through the
13 phone, Instagram, Snapchat, my text messages, my call logs,
14 just, you know, searching stuff up. And I'm like, "What are
15 you talking about? I just woke up." She's like, "No. You
16 trying to play me like I'm crazy. She just told me you were
17 talking to her." I'm like, "Who are you talking about? I
18 just woke up." And you're like, "Oh, you always want to play
19 stupid. Don't" -- "don't act dumb now." I'm like, "I'm not
20 acting dumb. What are you talking about?"

21 Q. At this point in time, Mr. Palma Flores, between October
22 and December of 2019, had you and Ms. Sheehy discussed the
23 events surrounding the shooting of Mr. Brown?

24 A. Yes.

25 Q. On this day in which you're having this argument about

1 cheating?

2 A. No. Prior to that, it was -- Kollin wanted us to meet up
3 with him. So we --

4 MR. BEN'ARY: Anything that Kollin said.

5 MR. JENKINS: Your Honor, I don't think he said
6 that. He just said they met up.

7 MR. BEN'ARY: No, I think he said -- was saying what
8 Kollin said.

9 THE COURT: Just focus him.

10 MR. JENKINS: Yeah.

11 BY MR. JENKINS:

12 Q. Well, don't tell us what Kollin said. But did you meet
13 up with Kollin?

14 A. I said Kollin wanted to meet up.

15 Q. Okay. Meet up with who?

16 A. Me and Laila.

17 Q. And afterwards -- well, was this before or after the
18 December 2019 incident between you and Ms. Sheehy?

19 A. That was a couple days before, if I'm not mistaken. We
20 went to his cousin's apartment out in D.C.

21 Q. Was this before or after you had received a photograph by
22 Snapchat that you identified as Defense Exhibit 2?

23 A. That was before.

24 Q. It was before you had received that photograph?

25 A. Yes.

1 Q. Taking you back to the argument with Ms. Sheehy, she
2 testified that at some point in time you looked through her
3 phone; was that true?

4 A. No. I feel like usually it's the woman that's supposed
5 to go through the man's phone. I don't go through women's
6 phone.

7 Q. Did -- she also testified that during that argument you
8 talked about her attempting to get in contact with law
9 enforcement; do you remember that testimony?

10 A. Yes.

11 Q. Was that true?

12 A. That was not true. We were just having an argument as
13 far as my infidelity.

14 Q. Now, after that incident, did there come a time in which
15 you were arrested for domestic violence?

16 A. Yes.

17 Q. And did you and Ms. Sheehy talk about your arrest?

18 A. Um, yeah.

19 Q. Now, I want to fast forward a little bit. Your cousin,
20 Hector Flores, you recall his testimony on yesterday, correct?

21 A. Correct.

22 Q. And Mr. Flores testified that at some point in time, a
23 couple months after the shooting, that he had a conversation
24 with you in which you told him you killed somebody?

25 A. That never happened.

1 Q. Did you ever tell anyone that you killed Mr. Brown?

2 A. No.

3 Q. Now, Mr. Palma Flores, when you were -- after your arrest
4 in this case, did you have occasion to communicate with
5 Ms. Sheehy?

6 A. Correct.

7 Q. How did you communicate with her?

8 A. The phone, mail, that's pretty much it.

9 Q. Mail was one of the ways in which you communicated with
10 her?

11 A. Correct.

12 MR. JENKINS: If I can have published to the jury at
13 this time Government's Exhibit 35.

14 BY MR. JENKINS:

15 Q. Can you tell us what's on the screen now, Mr. Palma
16 Flores? Is it one of your letters to Ms. Sheehy?

17 A. Yes, sir.

18 Q. Now, in this letter, Mr. Palma Flores, you mentioned --
19 make reference to Ms. Sheehy cheating on you with Summer's
20 brother?

21 A. That's correct.

22 Q. And you remember Ms. Sheehy testifying about that?

23 A. Yes.

24 Q. And testifying that Summer's brother was a reference to a
25 family member of hers who was in law enforcement?

1 A. Yes.

2 Q. Was that true?

3 A. No.

4 Q. Tell the ladies and gentlemen of the jury, what did you
5 mean by that in this letter?

6 A. She has a friend named Summer and she cheated on me with
7 her brother.

8 Q. Did this have anything to do with law enforcement?

9 A. No.

10 Q. Did this have anything to do with Mr. Brown's shooting
11 and killing?

12 A. No.

13 Q. I'm going to now turn your attention to Government's
14 Exhibit No. 34.

15 Now, before I -- before we talk about this exhibit,
16 you said you -- after your arrest you communicated with
17 Ms. Sheehy by mail. Is that from the jail?

18 A. Correct.

19 Q. Okay. And do I take it, normally, you would just mail it
20 out from the jail?

21 A. Yes.

22 Q. Let me take -- draw your attention now to Government's
23 Exhibit 34. What is this?

24 A. This is a letter I wrote to Laila.

25 Q. And did you send this letter out through the normal means

1 as you testified you sent out Government's Exhibit 35?

2 A. No.

3 Q. Tell us about the circumstances on how you sent this
4 letter out.

5 A. It was a person in the jail that was getting released
6 soon, so I started writing a letter to her so he could give
7 to -- if not a friend or give it directly to her.

8 Q. Why didn't you just put it in the normal mail?

9 A. Because they -- people at the ADC review the mail.

10 Q. Was there something contained in this letter you didn't
11 want the sheriffs at the jail to read -- to have access to?

12 A. Yes.

13 Q. Why?

14 A. Because I didn't trust my lawyer at the time. He was
15 railroading me and, you know, we were just -- weren't seeing
16 eye to eye. I was trying to -- you know, just reach out to
17 her and tell her, like, the stuff that she's doing is messed
18 up.

19 Q. At that point in time I didn't represent you, correct?

20 A. No, sir.

21 Q. But is it fair to say you were dissatisfied with your
22 counsel at that time?

23 A. That's correct.

24 Q. Now, I want to go to the contents of the letter. Do you
25 have it before you?

1 MR. JENKINS: If you can blow up the first five
2 lines of it.

3 BY MR. JENKINS:

4 Q. Now, Mr. Palma Flores, can you read the portion that's on
5 the screen?

6 A. It says, "Hey babe, in this letter I'm going to tell you
7 everything I can't on the phone."

8 Q. Stop there. Stop there. What do you mean by that?

9 A. You know, just like the mail is monitored, the jail phone
10 calls are monitored as well.

11 Q. Okay. Please continue.

12 A. "I truly forgive you for telling on me, but now we got to
13 find a way to fix this. Lately" --

14 Q. What did you mean by "telling on me"?

15 A. You know, because, like, the way Laila works is -- is you
16 do something she doesn't like.

17 MR. BEN'ARY: Objection. Nonresponsive to the
18 question.

19 BY MR. JENKINS:

20 Q. Let me ask you this. I withdraw that question.

21 At this point in time, when you wrote this letter,
22 were you aware whether or not Ms. Sheehy had met with law
23 enforcement?

24 A. Yes.

25 Q. Were you aware of -- as to whether or not she had

1 discussed with law enforcement the events surrounding
2 Mr. Brown's shooting and killing?

3 A. Yes.

4 Q. When you reference in this letter about "telling on me,"
5 what are you referring to?

6 A. Her saying that I was the one that murdered Mr. Brown.

7 Q. And when you go on to say, "We have to find a way to fix
8 this," what did you mean by that?

9 A. You need to stop what you're doing. Like, you're playing
10 with my livelihood. Like, this isn't funny anymore. Like,
11 you have to tell the truth.

12 Q. Now, if you can --

13 MR. JENKINS: Court's indulgence.

14 THE COURT: Yes, sir.

15 (A pause in the proceedings.)

16 BY MR. JENKINS:

17 Q. I want to show you a different portion of the first page.
18 Can you read that portion for the jury?

19 A. "The Feds are going to make it seem to the jury that you
20 are lying for me because you are my girlfriend, and we have to
21 do whatever we can to make them think otherwise."

22 Q. What did you mean by that, Mr. Palma Flores?

23 A. Basically, you know, since she was my girlfriend, you
24 know, she gave a false testimony on me. If she were to say
25 anything else rather than a false testimony she gave to the

1 police, they'd think she's trying to cover up for me because
2 she's my girlfriend.

3 Q. So when you go on to say that we -- "we have to do
4 whatever we can to make them think otherwise," what are you
5 meaning by that?

6 A. You know, like, you got to start telling the truth.
7 Like, you can't keep on lying on me.

8 MR. JENKINS: Go down to the last line of the first
9 page. The last two.

10 BY MR. JENKINS:

11 Q. Now, here you say, "All they showed me was an audio
12 recording of..." What are you referring to?

13 A. My old lawyer, before you, set up a -- I don't know if it
14 was a meeting with the prosecutor or if the prosecutor made a
15 meeting with them, but they showed us an audio recording of
16 Laila accusing me of killing Mr. Brown.

17 Q. When you heard that audio recording of Ms. Sheehy
18 accusing you of killing Mr. Brown, how did it make you feel?

19 A. I was devastated.

20 MR. JENKINS: Go to the second page at the top. The
21 first line.

22 BY MR. JENKINS:

23 Q. Now here in the letter you write that "You snitching on
24 me," what did you mean by that?

25 A. After the audio recording, you know, I was -- you can

1 tell she was putting the blame on me.

2 Q. Now, I want to take you down just a little bit further.
3 Now, in this page of the letter, again there's a reference to
4 an attorney. That first reference is to your first attorney,
5 correct?

6 A. It says the same --

7 Q. It says, "Also, attorney would also always tell me that
8 you are cooperating with them." That's in reference to your
9 first attorney, correct?

10 A. Oh, I'm sorry. I was looking at the little magnified
11 part. It says, "The same and sounds the same, so my whole
12 game plan is that you say..."

13 Q. Okay. Let me ask you about that portion that you just
14 read. What did you mean by "the same and sounds the same so
15 my whole game plan is that you say"? What did you mean by
16 that?

17 A. That, you know, basically, she was trying to make it seem
18 like I was to blame for what happened to Mr. Brown, so it's,
19 like, you got to start telling the truth, like, you can't keep
20 lying on me, and due to the fact that, you know, she would say
21 one thing and then say another thing, it was, like, you're all
22 over the board.

23 MR. JENKINS: Go to the next page, page 3.

24 BY MR. JENKINS:

25 Q. Takes you to page 3 of your letter. Now, here you say,

1 "Do anything to Fort or Forf." What is Forf?

2 A. Forf is, like, another term for a person. Well, it has
3 multiple meanings, but it just depends the way you want to use
4 it.

5 Q. How did you intend it when you wrote it here in your
6 letter?

7 A. I was talking about Mr. Brown.

8 Q. You go on to say, "Also, when we went to Forf..."

9 Is that Mr. Brown?

10 A. Correct.

11 Q. "Mr. Brown's crib we were with Jason." Now, who is
12 Jason?

13 A. Jason is my friend.

14 Q. Was it true that Jason went with you to Mr. Brown's
15 apartment?

16 A. No.

17 Q. Why are you saying that in this letter?

18 A. Because, basically, when I told my lawyer what happened
19 and, you know, that he was sending -- he was trying to get in
20 contact with Laila. He really wasn't trying to listen to me,
21 and he was making me try to take a plea deal instead, and I
22 was, like, I'm not taking a plea deal because I didn't do
23 anything.

24 Q. Had you talked to Jason, at this point in time, about
25 what had happened with Mr. Brown?

1 A. Before I got incarcerated, I did.

2 Q. Let me take you to page 4 of your letter, top three
3 lines.

4 Can you read the top three lines for the jury?

5 A. "Also, when the Feds would not be able to" -- "also, the
6 feds would not be able to prove we are lying because after
7 everything we can say we..."

8 Q. When you say "The Feds would not be able to prove we are
9 lying," what are you referring to?

10 A. The police.

11 Q. Why would -- did you have concerns that the quote/unquote
12 "Feds" would think you were lying?

13 A. Yes.

14 Q. Why?

15 A. Because before I got booked, Detective Wallace was making
16 it seem like I'm the one that killed Mr. Brown.

17 Q. Were you concerned that law enforcement would not believe
18 you that it was someone else who had killed Mr. Brown?

19 A. Yes.

20 MR. BEN'ARY: Objection to leading questions.

21 THE COURT: Watch your form, Mr. Jenkins.

22 MR. JENKINS: Thank you, Your Honor.

23 If we can go down to the middle of the same page --
24 from here to here. Yes.

25 BY MR. JENKINS:

1 Q. Now, Mr. Palma Flores, could you read this to the jury?

2 A. "Thing, bae, was that in your statement, you gave" -- "in
3 that statement, you said so much incriminating evidence. So
4 the only way you can..."

5 Q. Who are you referring to as "bae"?

6 A. Laila.

7 Q. And what do you mean by this?

8 A. Um.

9 Q. That she said "so many" -- "so much incriminating
10 evidence." What do you mean by that?

11 A. After hearing the audio recording, you know, she, you
12 know, said a whole bunch of lies and put the whole blame on
13 me.

14 Q. I think I have one final question concerning the letter.
15 If you can go to page 5.

16 Now, Mr. Palma Flores, in this portion of your
17 letter, you mentioned a person by the name of Bryant. Do you
18 see that?

19 A. Yes.

20 Q. Who is Bryant?

21 A. Bryant is my friend.

22 Q. And you also discuss in this portion of the letter Jason?

23 A. Correct.

24 Q. And Jason was another friend of yours, correct?

25 A. Correct.

1 Q. And in this portion of the letter, you seem to be
2 suggesting that Jason and Laila have a conversation with
3 Bryant, correct?

4 A. Correct.

5 THE COURT: Just a second, Mr. Jenkins. Somebody's
6 hungry out there. Yes, sir, thank you.

7 BY MR. JENKINS:

8 Q. Why did you want Jason and Laila to speak with Bryant?

9 A. Because while I was in the ADC, I was hearing that
10 Mr. Worlds was bragging about killing Mr. Brown.

11 Q. And what role did you want Mr. Bryant to play?

12 A. You know, basically, just see if what he was saying was
13 true.

14 Q. Now, did you know someone who used the alias or nickname
15 "Slutty C"?

16 A. Yes.

17 Q. Who is Slutty C?

18 A. That's my friend, Christian.

19 Q. And Christian is also mentioned in the letter, correct?

20 A. Yes.

21 Q. Go to page 8. Now, can you read that portion for the
22 jury?

23 A. Yes.

24 "It's Kollin because in the letter I said go" --

25 "just go to Slutty." But Jason has a cousin named Christian,

1 and his name is Slutty -- C on Snap.

2 Q. So in this portion, what did you intend by this portion
3 of the letter?

4 A. Basically, you know, Laila wrote me a letter basically
5 informing me that --

6 MR. BEN'ARY: Objection.

7 THE COURT: Sustained.

8 BY MR. JENKINS:

9 Q. You can't -- you can't tell us about that, okay?

10 But just tell us what you meant by this, what did
11 you want to have happen?

12 A. Basically, she told me not to --

13 MR. BEN'ARY: Objection.

14 THE COURT: Sustained.

15 MR. JENKINS: I'll move on, Your Honor.

16 THE COURT: Thank you.

17 MR. JENKINS: If I can have Government Exhibit 48B
18 displayed for the witness.

19 BY MR. JENKINS:

20 Q. Mr. Palma Flores, take a look at the screen. Do you
21 recognize this exhibit?

22 A. Yes.

23 Q. Do you remember when it was introduced into evidence?

24 A. Yes.

25 Q. I want you to take a look at -- the 5th line. Can you

1 highlight the 5th line from the top?

2 First of all, do you recognize the -- is this
3 Instagram account or Snapchat? Tell me, what is it?

4 A. If I'm not mistaken, that's Kollin's Snapchat account.

5 Q. Which one, is it the Slutty Boy K or Spillgates?

6 A. Slutty Boy K.

7 Q. And do you know whose account Spillgates is?

8 A. Yes.

9 Q. Who is it?

10 A. Kollin's cousin.

11 Q. Now, are you familiar with the address 6147 Les Dorson
12 Lane?

13 A. Yes.

14 Q. Where is that?

15 A. If it's not Jason's house, I know it's in Jason's
16 neighborhood.

17 Q. Now, this message was sent from your phone, correct?

18 A. Yes.

19 Q. Who sent this message?

20 A. Kollin.

21 Q. When did he send it? What's the time?

22 A. It says Saturday, October 26, 20:21:43.

23 Q. And this is a message that Kollin sent from your phone to
24 this other individual, correct?

25 A. Correct.

1 Q. If I can have you come down 1, 2, 3, 4. Were you
2 familiar with Mr. Brown's Snapchat account?

3 A. Yes.

4 Q. I'm sorry, one more, Mr. Qwa Brown.

5 And do you recognize his Snapchat account on this
6 exhibit?

7 A. Yes.

8 Q. Is it in the highlighted portion?

9 A. Yes.

10 Q. And this appears to be a message from Mr. Brown to who?

11 A. Kollin.

12 Q. And again, was this sent from your phone?

13 A. No. It says from Qwa Brown to Slutty Boy K, so that
14 means it was sent from Mr. Brown's phone.

15 Q. Now, do you see the time that's noted on this
16 communication?

17 A. It says Saturday, October 26, 4:25:09.

18 Q. At the time that this message was sent, was your phone in
19 your possession?

20 A. No.

21 MR. BEN'ARY: Sorry, can we have the Court's
22 indulgence?

23 THE COURT: You may.

24 (Counsel confers.)

25 MR. JENKINS: Thank you, Your Honor.

1 BY MR. JENKINS:

2 Q. At the time this message was sent, were you physically in
3 possession of your phone?

4 A. No.

5 Q. Who had your phone?

6 A. Kollin did.

7 Q. And you heard the detective testify that this message was
8 sent approximately five minutes before the first 911 call,
9 correct?

10 A. Yes.

11 Q. Now, can you go to the next message?

12 Now, this is sometime later, correct?

13 A. Yes.

14 Q. And who?

15 MR. BEN'ARY: Sorry. It's, like -- it's earlier --

16 MR. JENKINS: It's early. That's right. It goes to
17 opposite. I'm sorry, go back up one to the one just before
18 the "Bro, you're blowing me up." Okay.

19 BY MR. JENKINS:

20 Q. Now, again, this is from the same Slutty Boy K account,
21 correct?

22 A. It's from Zachchasin_ky2sluttyboyk (ph).

23 Q. And Slutty Boy K is Kollin, correct?

24 A. Yes.

25 Q. At the time this message was sent, where was your phone?

1 A. With Kollin.

2 Q. Did you know Kollin was communicating with Mr. Brown on
3 your phone?

4 A. No.

5 Q. Did you ask him to communicate with Mr. Brown on your
6 phone?

7 A. No.

8 Q. The --

9 MR. JENKINS: Court's indulgence.

10 THE COURT: Yes, sir.

11 BY MR. JENKINS:

12 Q. Now, Mr. Palma Flores, on yesterday, it was admitted into
13 evidence the extraction from your cell phone; do you remember
14 that?

15 A. Correct.

16 Q. Do you remember the video depicting you at a gun range
17 displaying a firearm?

18 A. Yes.

19 Q. Was that you?

20 A. Yes.

21 Q. Had you been to a gun range before?

22 A. Yes.

23 Q. In that video, do you remember what type of firearm were
24 you in possession of? The video is not up.

25 A. Oh, like I said, I'm not too good with guns so I wouldn't

1 know, but I just know it was -- me and my friend, Will, went
2 to the shooting range. I took my AR-15 and he took his two
3 guns, and we were both just shooting at the range, and I
4 borrowed his two guns and he borrowed my AR.

5 Q. Do you know what kind of gun you borrowed from your
6 friend, the handgun?

7 A. No.

8 Q. Now, you also heard the testimony of Detective Wallace
9 about the search of your residence, correct?

10 A. Yes.

11 Q. And in that search, it yielded a firearm, correct?

12 A. Correct.

13 Q. Is that the AR-15 you just referred to in your testimony?

14 A. Yes.

15 Q. It also yielded a number of ammunition; you heard that
16 testimony, correct?

17 A. Yes.

18 Q. Ammunition for the AR-15, correct?

19 A. What's two different types of ammunition?

20 THE COURT: Watch the form of your questions.

21 MR. JENKINS: Yes.

22 BY MR. JENKINS:

23 Q. What were the types of ammunition recovered from your
24 home?

25 A. If I'm not mistaken, the rifle caliber was a .223, and

1 then the smaller one was a .45-caliber bullet.

2 Q. Mr. Palma Flores, on yesterday, you heard Ms. Laila
3 Sheehy testify about you disposing of a weapon; do you
4 remember that testimony?

5 A. Correct.

6 Q. Did that occur?

7 A. Never.

8 Q. At any point in time, did you own a GLOCK 9-millimeter?

9 A. No.

10 Q. Now, from your phone extraction, there was a photograph
11 or a video of you holding a gun box; do you remember that
12 testimony?

13 A. Yes.

14 Q. Can you explain to the ladies and gentlemen of the jury
15 about the circumstances surrounding that video?

16 A. I mean, you know, when a gun -- when you buy a gun,
17 usually, it comes in a box or a package and, you know, I was
18 just taking a picture with the package, the box that it came
19 in.

20 Q. Mr. Palma Flores, did you shoot Mr. Brown?

21 A. No.

22 Q. Did you kill Mr. Brown?

23 A. No.

24 Q. Were you present, near his residence when he was shot and
25 killed?

1 A. Yes.

2 MR. JENKINS: Your Honor, I have no further
3 questions.

4 THE COURT: What we're going to do is we're going to
5 take a little bit of a comfort break at this point. Those of
6 us who have been in the court the entire time have been here
7 for a good two hours, so maybe an hour and a half. Ladies and
8 gentlemen of the jury, we're going to take a real short break,
9 about ten minutes for comfort. My plan is to allow you to get
10 to eat your lunch sometime between 1:00 and 1:30, that's the
11 goal. So if you need to get a little snack or something to
12 get you through the rest of the late morning, early afternoon,
13 that's fine. So we'll come back in at about -- I think that
14 clock says about noon. Is that what it says?

15 MR. BEN'ARY: It says noon, Your Honor.

16 THE COURT: Yeah, about ten after 12:00. Okay.

17 (Jury dismissed.)

18 THE COURT: Mr. Ben'Ary, how long do you think
19 you're going to need on your cross?

20 MR. BEN'ARY: I'll be as quick as I can, Your Honor.
21 Maybe 20 minutes to 25 minutes.

22 THE COURT: All right. Mr. Jenkins, based upon that
23 representation of a 20-minute cross -- ladies and gentlemen,
24 you can have a seat, I'm sorry.

25 Based on that representation of a 20-minute cross,

1 maybe ten on rehab, if you need it.

2 MR. JENKINS: Yes, Your Honor.

3 THE COURT: All right. That should put us somewhere
4 around quarter of 1:00 or thereabout.

5 Do you anticipate any additional witnesses, Mr. --

6 MR. JENKINS: I do not, Your Honor.

7 Do you anticipate a case in rebuttal?

8 MR. BEN'ARY: I don't anticipate it right now, but
9 we're going to have to see where this goes.

10 THE COURT: I understand. I understand. As I said,
11 I'm just trying to spin a few plates at the same time. Okay.
12 I will -- we'll look to maybe having the jury go out for their
13 lunch break at 1:00, and maybe if we're to that point
14 instructing them once they come back from their lunch break,
15 and then you all can look forward to closing arguments if
16 applicable after the instructions.

17 And again, as I indicated earlier, I prefer
18 instructing the jury before the closing arguments, that way
19 the lawyers get the benefit of having the instructions with
20 them if they want to make specific reference to them so that
21 will be the goal.

22 All right. While we're -- at this point, young man,
23 you can step down and go back over with Mr. Jenkins.

24 (Witness excused.)

25 THE COURT: We'll be in recess until about 12:10.

1 THE BAILIFF: All rise. This court stands recess.

2 (Recess.)

3 (Court proceedings resumed at 12:27 p.m.)

4 THE COURT: Ready to bring the jury back in?

5 MR. BEN'ARY: Yes, sir.

6 (Jury present.)

7 THE COURT: You may be seated, ladies and gentlemen.

8 I know I ask you this every time, but, ladies and
9 gentlemen, you've lived up to the Court's instructions not to
10 discuss the case or any aspect of the case with anyone?

11 With the work we're doing today, everyone is going
12 to get in their steps, so that's a good thing if you've got
13 your little monitor and you're going to be ready for the rest
14 of the day, but we appreciate your time and attention.

15 Mr. Ben'Ary.

16 MR. BEN'ARY: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. BEN'ARY:

19 Q. Good afternoon, sir.

20 A. How are you doing, sir?

21 Q. Doing well. Thank you.

22 Mr. Jenkins asked you a handful of questions about
23 this occasion at your house on or about October 25th of '19
24 where Qwa set up to have someone come purchase marijuana; do
25 you remember that?

1 A. That's correct.

2 Q. And on that occasion, you, in fact, possessed marijuana,
3 correct?

4 A. Correct.

5 Q. And you intended to distribute or sell it or give it to
6 someone, correct?

7 A. Correct.

8 Q. And that happened at your -- the house where you lived
9 with -- with your family in Fairfax County, correct?

10 A. Correct.

11 Q. And you had a gun during that deal, correct?

12 A. Correct.

13 Q. You testified that you pulled it out because Elijah
14 started to approach you afterwards; do you remember that?

15 A. Well, once I seen two people, like I said, come to the
16 backyard, that's when I went to go get a gun. Because I'm,
17 like, who are these people, because Qwa said only one friend
18 was coming. So, yes, to answer your question, I did possess a
19 gun.

20 Q. And you possessed that gun in connection with your
21 marijuana trafficking, correct?

22 A. Correct.

23 Q. And it was a handgun, correct?

24 A. Correct.

25 Q. Not the AR-15 that was seized in December at your house

1 during the search warrant; is that right?

2 A. No.

3 Q. Now, you were not the only person to live in that home,
4 correct?

5 A. Yes.

6 Q. Who else lived there with you?

7 A. My mother, my sister, my nephew; that's pretty much it.

8 Q. How old is your nephew, sir?

9 A. I think now he should be five or six.

10 Q. So back in 2019 when this armed drug deal occurred in the
11 backyard, he was three, two?

12 A. Two or three.

13 Q. And this is the same house where you kept a loaded AR-15
14 rifle, correct?

15 A. Correct.

16 MR. BEN'ARY: Pull up 12H, please.

17 BY MR. BEN'ARY:

18 Q. Is that the AR-15 rifle that you kept in the house with
19 your young nephew?

20 A. Correct.

21 Q. And you also had handguns in the house, correct?

22 A. Not handguns, one handgun.

23 Q. Okay. Well, let's look at 47A, please.

24 (Video played.)

25 BY MR. BEN'ARY:

1 Q. Now, that is a handgun, correct?

2 A. Correct.

3 Q. And that has -- is a handgun with an extended magazine
4 that holds lots of rounds, right?

5 A. Correct.

6 Q. And we'll watch the rest of the video now.

7 MR. BEN'ARY: Go ahead, please.

8 (Video played.)

9 BY MR. BEN'ARY:

10 Q. The second gun, also a handgun, but it's a smaller frame
11 than the first one, right?

12 A. Correct.

13 Q. The first gun is consistent with about a .45-caliber
14 firearm; is that right?

15 A. Correct.

16 Q. And the second one consistent with a 9-millimeter
17 handgun; isn't that right?

18 A. Um, I thought it was -- well, it was my friend's handgun,
19 but I thought it was a .45 and a .40-caliber handgun.

20 Q. And the reason that someone posts a video like this to
21 their social media accounts is a warning to people who might
22 try and rob someone of money and marijuana, correct?

23 A. Incorrect, sir.

24 Q. Now, when your residence was searched in December of
25 2019, there were no handguns there, correct?

1 A. Correct.

2 Q. And there was no 9-millimeter ammunition, correct?

3 A. Correct.

4 Q. There were three .45-caliber rounds in a show box,
5 correct?

6 A. Correct.

7 Q. So let's go back real quick and talk about what happened
8 after this marijuana deal where Charles snatched the marijuana
9 and ran.

10 After the shooting, there was a lot of talk over
11 social media about that event, correct?

12 A. Correct.

13 Q. And some of the talk out there was about how you were too
14 scared to use your gun to prevent that robbery; isn't that
15 right?

16 A. Correct.

17 Q. People were posting about it making it seem like you were
18 soft, correct?

19 A. Correct.

20 Q. And that is not the reputation that a marijuana dealer
21 wants to have, is it?

22 A. Incorrect.

23 Q. Because if people think you're soft, they're going to
24 target you for more robberies of marijuana and more robberies
25 for money, correct?

1 A. I mean, it's not like I'm trying to make a lifestyle or
2 hobby out of this, it was just I sold, you know, little
3 quantities of marijuana to my close friends.

4 Q. And even Qwa Brown basically dared you to come and get
5 him, didn't he?

6 A. I never recalled seeing anything like that.

7 Q. And so, in response to this, in response to word getting
8 out on the street that you were soft, you engineered a plan to
9 lure Qwa out of his house so you could kill him; isn't that
10 right?

11 A. No, sir.

12 Q. You brought your 9-millimeter GLOCK, consistent with the
13 smaller of the two guns from the video because it was easier
14 to conceal than the larger .45, correct?

15 A. No, sir.

16 Q. You knew that Kollin Worlds was friends with Qwa, so you
17 contacted Kollin even though you hadn't hung out with him in
18 at least months, correct?

19 A. No, sir.

20 Q. Picked up Kollin in Mount Vernon Square Apartments,
21 correct?

22 A. Correct.

23 Q. And then you went and switched cars so that your mother's
24 minivan wouldn't be seen in the area around Qwa's residence,
25 correct?

1 A. No, sir.

2 Q. You used Kollin's Snapchat to lure Qwa Brown out of his
3 house, correct?

4 A. No, sir.

5 Q. Qwa Brown was just sitting on the steps when you
6 approached; isn't that right?

7 A. No, sir.

8 Q. And you fired three shots, one that struck his shoulder,
9 and then he ducked, bending forward to avoid being shot a
10 second time; isn't that right?

11 A. No, sir.

12 Q. And then you shot him in the top of the head and left him
13 to bleed to death on the steps of his own home; isn't that
14 right, sir?

15 A. No, sir.

16 Q. And you went back to the car and left the area, correct?

17 A. No, sir.

18 Q. You went to your cousin, Hector's house, where you burned
19 some clothes, correct?

20 A. Correct.

21 Q. And then after that, you went and had a meal at IHOP; is
22 that right?

23 A. Correct.

24 Q. Since being charged, sir, you've been engaged in a
25 attempt to convince people to lie for you; isn't that right?

1 A. No, sir.

2 Q. You tried to convince Jason to lie for you; isn't that
3 right?

4 A. I wouldn't say lie.

5 Q. You tried to convince your sister, Jasmine, to lie for
6 you; isn't that right?

7 A. No. I mean, I lied about my alibis, where I was that
8 night, but besides that, I haven't told Jasmine to lie about
9 anything.

10 Q. Well, Jason delivered that letter, Exhibit 34 to Laila,
11 didn't he?

12 A. I think so.

13 Q. And when asked about it by authorities, he lied and
14 claimed it wasn't him. Do you know that?

15 MR. JENKINS: Objection, Your Honor.

16 THE COURT: Cross-examination overruled.

17 BY MR. BEN'ARY:

18 Q. Do you know that to be the case?

19 A. I didn't.

20 Q. And Jasmine told authorities that you were home the whole
21 night; are you aware of that?

22 A. Correct.

23 Q. And that's a lie, isn't it?

24 A. Yes.

25 MR. BEN'ARY: Can I ask that the witness be shown

1 Government's Exhibit 34, which is in the exhibit binder,
2 please?

3 THE CSO: 34?

4 MR. BEN'ARY: 34.

5 BY MR. BEN'ARY:

6 Q. This is the letter that you wrote to Laila that you had
7 smuggled out of the jail, correct?

8 A. Correct, sir.

9 Q. Now, your testimony on direct, I believe, is that your
10 goal in sending this letter was to get Laila to tell the truth
11 that it was really Kollin who committed the murder, not you,
12 right?

13 A. Yes, sir.

14 Q. That would be a really important thing to happen for you,
15 right?

16 A. I mean, yeah, I'm being charged for a crime I didn't do.

17 Q. And if, in fact, it was Kollin that committed this murder
18 and not you, you would have every reason for all of the
19 authorities to know about it, correct?

20 A. I mean -- what do you mean by that?

21 Q. Are you not sure that you would want the law enforcement
22 authorities to know that it wasn't you that committed the
23 murder?

24 A. Of course.

25 Q. Of course.

1 But instead of sending this through the mail, you
2 had it smuggled out with an inmate who was getting released,
3 correct?

4 A. Yes, sir.

5 Q. And you had every opportunity to alert the authorities
6 that it was really Kollin and not you, didn't you?

7 A. I never had a opportunity.

8 Q. And you testified that Detective Wallace contacted you
9 within days of the murder, didn't she?

10 A. Yes.

11 Q. Well, at that point, did you tell her that it was really
12 Kollin that did it?

13 A. No.

14 Q. Okay. And you testified on direct it's because you were
15 afraid of the police, right?

16 A. What do you mean?

17 Q. I thought that was your direct testimony when Mr. Jenkins
18 was asking you about this, you, I think, indicated you were
19 afraid of police so that caused you some issue?

20 A. Yeah. I mean, especially after this incident, like --

21 Q. I'm not talking about after this incident; I'm talking
22 about a day or two after this shooting that you didn't commit,
23 having an opportunity to tell the police that it was really
24 Kollin. You didn't do that; is that correct?

25 A. No, sir.

1 Q. And did I misunderstand your direct testimony that that
2 was not because you were afraid of Detective Wallace?

3 A. Well, I wasn't necessarily afraid of Detective Wallace;
4 it's just, I don't know, like, I feel like I'm a young
5 minority, like, if you look at the news, like, I feel like the
6 police isn't meant for us, like, they don't protect us.

7 Q. Well, fair enough.

8 In any event, you write this letter to Laila and
9 your goal is to get her to just tell the truth, right?

10 A. Yes, sir.

11 Q. All right. Do you have that in front of you?

12 A. The letter that I wrote?

13 Q. Correct.

14 A. Correct.

15 Q. It's eight and a half or so pages of single-space
16 handwriting on it, right?

17 A. Correct.

18 Q. Take a moment there. I want you to point out for members
19 of the jury, all the times in there where you say "tell the
20 truth." Take a minute, sir.

21 (A pause in the proceedings.)

22 BY MR. BEN'ARY:

23 Q. All right. Mr. Palma, let me try and help you out here.
24 There's not one time when you say "tell the truth" in this
25 letter; is that right?

1 A. Yes, sir.

2 Q. Not a single time in eight and a half pages do you tell
3 the person who has the key to your freedom to just tell the
4 truth, do you?

5 A. No, sir.

6 Q. That's because the contents of this letter are not the
7 truth; it's a game plan to save your skin, correct?

8 A. No, sir.

9 Q. You do everything you can to get as many people here to,
10 as you say, cause some confusion in the court so that the jury
11 doesn't find you guilty, right? Is that correct?

12 A. No, sir.

13 Q. Mr. Palma, you killed Qwa Brown because he robbed you of
14 a zip, an ounce of marijuana; isn't that right?

15 A. No, sir. Mr. Brown didn't rob me of anything.

16 Q. Well, fair enough.

17 You killed Qwa Brown because he set you up for a
18 robbery; isn't that right?

19 A. No, sir.

20 Q. And that robbery was of an ounce of marijuana, correct?

21 A. Yes, sir.

22 Q. When you stood there at the bottom of those steps at 7112
23 Fairchild Drive, did Qwa Brown even see you coming?

24 A. I don't know what you're talking about, sir.

25 Q. What was the look in Qwa Brown's eye, sir, when you

1 pulled that trigger and ended his life?

2 A. I didn't pull no trigger, sir.

3 MR. BEN'ARY: Thank you, Your Honor.

4 THE COURT: Redirect.

5 REDIRECT EXAMINATION

6 BY MR. JENKINS:

7 Q. Mr. Palma Flores, briefly.

8 Who robbed you of the marijuana?

9 A. Some guy named Charles and Elijah.

10 Q. Was Qwa Brown there?

11 A. No.

12 MR. JENKINS: No further questions, Your Honor.

13 THE COURT: Thank you. You may step down, sir.

14 (Witness excused.)

15 THE COURT: Next witness, Mr. Jenkins.

16 MR. JENKINS: Your Honor, the defense rest.

17 THE COURT: Very good.

18 Ladies and gentlemen of the jury, at this point, the
19 parties in the matter have rested.

20 Is the government calling any case in rebuttal? I'm
21 sorry.

22 MR. BEN'ARY: May I have one moment, please? I
23 think the answer is no --

24 THE COURT: Sure.

25 MR. BEN'ARY: -- but allow me to consult with

1 co-counsel.

2 (Counsel confers.)

3 MR. BEN'ARY: No, Your Honor, there's no rebuttal.

4 THE COURT: All right. Thank you, sir.

5 The case is set now for me to give you the
6 instructions. What I'm going to do is I'm going to go ahead
7 and let you take your lunch break now. And then when we come
8 back we'll go ahead and instruct you on the law that you are
9 to apply in deciding this case. Please do not discuss the
10 case or any aspect of the case with anyone.

11 We have a nice big area for you to spread out and
12 have your lunch. It's okay to have casual conversation. I
13 want you to understand that that is not the prohibition, but
14 please do not discuss the case or any aspect of the case with
15 anyone.

16 We should probably have you back in here -- I'd like
17 to have you back in here by 1:30, which means more like 1:40.
18 So we'll shoot for 1:30, and I will see you then. Enjoy your
19 lunch, ladies and gentlemen.

20 (Jury dismissed.)

21 THE COURT: Ladies and gentlemen, you can be seated.
22 Thank you.

23 Mr. Jenkins, I'm sure you're going to want to renew
24 the motion that you made at the conclusion of the government's
25 case. And now, obviously, with the standard changing, do you

1 want to highlight anything for the Court?

2 MR. JENKINS: No, Your Honor. I would renew the
3 motion, Your Honor, and I don't have any additional argument.
4 I think the Court is familiar with the arguments and also now
5 had the benefit of the additional testimony, and I trust that
6 the Court can -- I can reserve it to the Court's judgment.

7 THE COURT: Thank you, sir. I appreciate your
8 approach. The Court believes under the circumstances
9 presented and the evidence presented at this point that the
10 motion on behalf of Mr. Palma Flores is appropriate, and the
11 Court denies the same for the reasons previously articulated
12 and for the additional information provided after the
13 defendant presented its case-in-chief.

14 Counsel, I think we're pretty close to where we need
15 to be on the instructions. What we're going to do is this:
16 Now that we're -- we are where I think we need to be, I'm
17 going to run 14 copies for the members of the jury, then we'll
18 have a separate copy for you. I will have them in the order
19 that I pretend to read them, and so you'll have the benefit of
20 that.

21 As I said earlier, if I inadvertently state
22 something wrong or misread something, just raise your hand,
23 and we can go back and revisit it. I usually get pretty good,
24 but I'm imagining it's going to take me about 45 minutes. So
25 I am not infallible, so I will call on you to let me know if

1 something has gone wrong as far as the instructions are
2 concerned.

3 Mr. Palma Flores, again, I've asked you this
4 question several times throughout the course of this
5 proceeding. And I have observed your lawyer who has worked
6 very hard for you and has done what I believe to be an
7 excellent job. But I need to ask you, are you entirely
8 satisfied with the services of your counsel?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Very good, sir.

11 All right. I'm going to direct that we take
12 Mr. Palma Flores back downstairs so that he can get a bite to
13 eat. For any people that are still in the courtroom, please
14 understand that you're not to have any contact with any of the
15 jurors or any other persons who are involved in the course of
16 this litigation, accordingly.

17 Obviously, the prosecution team can meet and confer
18 and the defense team can meet and confer, but the bottom line
19 is parties -- people who are outside the parties of the
20 litigation or officials of the Court are instructed not to do
21 anything which could undermine the ability of this Court to
22 provide justice in the disposition of this case.

23 And I remind everybody that the Court does have
24 certain inherent powers, contempt powers, to address any
25 concerns that run afoul of the Court's specific instruction in

1 that regard.

2 Thank you.

3 (Lunch Recess 12:49 p.m.)

4 (Court proceedings resumed at 1:41 p.m.)

5 MR. JENKINS: Your Honor, I apologize for my tardy
6 return from lunch.

7 THE COURT: That's fine. We were all trying to
8 return as quickly as we could.

9 Anything else we need to do before we bring the jury
10 in?

11 MR. BEN'ARY: I don't believe so, Your Honor.

12 THE COURT: Counsel, on instruction number M, I'm
13 going to change one word because it says in each of the
14 arguments and before the arguments of counsel, instead of each
15 on the very first one.

16 THE DEPUTY CLERK: Counsel, do you all have a
17 verdict form that you --

18 THE COURT: Still waiting on one, Ms. Tinsley?

19 THE CSO: Yes.

20 (A pause in the proceedings.)

21 (Discussion off the record.)

22 MR. BEN'ARY: Sir, the parties just noticed one
23 deletion to instruction UU. And, actually, UU is the
24 definition of a controlled substance but then underneath it
25 says, "For the jury to prove beyond a reasonable doubt that

1 the defendant..." and it says "Conspired to possess,
2 possessed with intent to distribute marijuana." So I think it
3 just -- or "conspire to..."

4 THE COURT: Do we have the right tense?

5 MR. BEN'ARY: Well, it's not a conspiracy. So it's
6 just possess with the intent to distribute marijuana.

7 THE COURT: It's to remove "conspire to."

8 MR. BEN'ARY: Correct.

9 MR. JENKINS: Correct, Your Honor.

10 THE COURT: All right.

11 MR. BEN'ARY: Apologies. You know, these get
12 recycled over and over and sometimes stuff like that creeps
13 in.

14 THE COURT: It's fine. On instruction lettered A,
15 as I indicated, I'm going to put, instead of received in this
16 trial and before the arguments of counsel. And then in the
17 fourth paragraph, counsel will quite properly refer to some of
18 the items, et cetera.

19 (Jury present.)

20 COURT'S INSTRUCTION

21 THE COURT: All right, ladies and gentlemen, there's
22 a bit of a miscommunication. We were all sitting here because
23 we thought one of you had not gotten back and so we were
24 sitting and we said, Well, do we need to send someone out to
25 find this juror? And Ms. Tinsley informed me that you all

1 were back there, so we wasted a little bit of time, but that's
2 okay.

3 So, ladies and gentlemen of the jury, we've all been
4 able to live up to the Court's instruction not to discuss the
5 case or any aspect of the case with anyone. Very good.

6 Ladies and gentlemen of the jury, now I'm going to
7 instruct you on the law that you are to apply in this case.
8 And then the lawyers will have an opportunity to tell you how
9 they believe the evidence should be considered. You'll have a
10 copy of these instructions for each of you when you go back to
11 deliberate.

12 Members of the jury, now that you've heard all the
13 evidence that is to be received in this trial and before the
14 arguments of counsel becomes my duty to give you the final
15 instructions of the Court as to the law that is applicable to
16 this case. You should use these instructions to guide you in
17 your decisions. All the instructions of law given to you by
18 the Court, those given to you at the beginning of trial, those
19 given to you during the trial, and these final instructions
20 must guide and govern your deliberations. It is your duty as
21 jurors to follow the law stated in all of the instructions of
22 the Court to apply these rules of law to the facts as you find
23 them to be from the evidence received during the trial.

24 Counsel will quite properly refer to some of the
25 applicable rules of law in their closing arguments to you.

1 If, however, any difference appears to you between the laws
2 stated by counsel and that as stated by the Court in these
3 instructions, you, of course, are to be governed by the
4 instructions given to you by the Court.

5 You're not to single out any one of the instructions
6 alone as stating the law but must consider the instructions as
7 a whole in reaching your decisions. Neither are you to be
8 concerned with the wisdom of any rule of law stated by the
9 Court. Regardless of any opinion you may have as to what the
10 law ought to be, it would be a violation of your sworn duty to
11 base any part of your verdict upon any other view or opinion
12 of the law than that given in these instructions of the Court
13 just as it would be a violation of your sworn duty as the
14 judges of the fact to base your verdict upon anything but the
15 evidence received in this case.

16 You were chosen as jurors for this case -- for this
17 trial in order to evaluate all of the evidence received and to
18 decide each of the factual questions presented by the
19 allegations brought by the government and the second
20 superseding indictment and the pleas of not guilty by the
21 defendant.

22 In resolving the issues presented to you for a
23 decision in this trial, you must not be persuaded by bias,
24 prejudice, or sympathy for or against any of the parties in
25 the case or by any public opinion. Justice through trial by

1 jury depends on the willingness of each individual juror to
2 seek the truth from the same evidence presented to all jurors
3 here in the courtroom and to arrive at a verdict by applying
4 the same rules of law as now being given to you -- to each of
5 you in these instructions of the Court.

6 There is nothing particularly different in the way
7 that a juror should consider the evidence in a trial from that
8 in which any reasonable and careful person would deal with any
9 very important question that must be resolved by examining
10 facts, opinions, and evidence. You are expected to use your
11 good sense in considering and evaluating the evidence in the
12 case. Use the evidence only for those purposes for which it's
13 been received and give the evidence a reasonable and fair
14 construction in light of your common knowledge of the natural
15 tendencies and inclinations of human beings.

16 If the defendant be proved guilty by a reasonable
17 doubt, say so; if not proved guilty beyond a reasonable doubt,
18 say so. Keep constantly in mind that it would be a violation
19 of your sworn duty to base a verdict upon anything other than
20 the evidence received in the case and the instructions of the
21 Court. Remember as well that the law never imposes upon a
22 defendant in a criminal case the burden or duty of calling any
23 witnesses or producing any evidence because the burden of
24 proving guilt beyond a reasonable doubt is always with the
25 government.

1 The evidence, in this case, consists of the sworn
2 testimony of the witnesses, regardless of who may have called
3 them, all exhibits received in evidence, regardless of who may
4 have produced them, all facts which may have been agreed to or
5 stipulated, and all facts and events which may have been
6 judicially noticed. When the attorneys on both sides
7 stipulate or agrees to the existence of a fact, you may accept
8 the stipulation as evidence and regard that fact as proved.
9 You are not required to do so, however, since you are the sole
10 judges of the facts.

11 Any proposed testimony or exhibits to which an
12 objection was sustained by the Court and any testimony or
13 exhibit ordered stricken by the Court, must be entirely
14 disregarded by you. Anything you may have seen or heard
15 outside the courtroom is not evidence and must be entirely
16 disregarded. Questions, objections, statements of counsel are
17 not evidence in the case.

18 You are to base your verdict only in the evidence
19 received in your case. In your consideration of the evidence
20 received, however, you are not limited to the bald statements
21 of the witnesses or the bald statements in the exhibits. In
22 other words, you're not limited solely to what you see and
23 hear as the witness testified or as to any exhibits that are
24 admitted. You are permitted to draw the -- from the facts
25 which you find have been proved such reasonable inferences as

1 you feel are justified in light of your experience and common
2 sense.

3 There are two types of evidence which are generally
4 presented during a trial. Direct evidence and circumstantial
5 evidence. Direct evidence is the testimony of a person who
6 asserts or claims to have actual knowledge of a fact such as
7 an eyewitness. Circumstantial evidence is the proof of a
8 chain of facts and circumstances, indicating the existence of
9 a fact. The law makes no distinction between the weight or
10 value to be given to either direct or circumstantial evidence.
11 Nor is a greater degree of certainty required of
12 circumstantial evidence than of direct evidence. You should
13 weigh all the evidence in the case.

14 Inferences are simply deductions or conclusions
15 which reason and common sense lead the jury to draw from the
16 evidence received in the case. In the absence of evidence in
17 the case to the contrary, you may infer but not compel to
18 infer that official duty has been regularly and properly
19 performed, that private transactions -- bless you -- have been
20 fair and regular, that the ordinary course of business or
21 employment has been followed, that things that have happened
22 according to the ordinary course of nature and ordinary course
23 of habits of life and that the law has been obeyed. When
24 evidence has been received in the case, concerning any of
25 these questions, you should be guided by the evidence in the

1 application of your common sense.

2 If any reference by the Court or by counsel to
3 matters of testimony or exhibits does not coincide with your
4 own recollection of that event, it is your recollection which
5 should control during your deliberations and not the
6 statements of the Court or of counsel. You are the sole
7 judges of the evidence received in the case.

8 The questions asked by a lawyer for either party to
9 this case are not evidence. If a lawyer asks a question of a
10 witness which contains an assertion of fact, therefore, you
11 may not consider the assertion by the lawyer as any evidence
12 of that fact.

13 Only the answers are evidence.

14 The defendant is not on trial for any act or any
15 conduct not specifically charged in the second superseding
16 indictment.

17 Testimony and or exhibit can be admitted into the
18 evidence during a trial only if it meets certain criteria or
19 standards. It is the sworn duty of the attorneys of each side
20 of a case to object when the other side offers testimony and
21 exhibits which the attorney believes is not properly
22 admissible under the rules of law. Only by raising an
23 objection can a lawyer request and then obtain a ruling from
24 the Court on the admissibility of the evidence being offered
25 by the other side.

1 You should not be influenced against an attorney or
2 their client because the attorney has made an objection. Do
3 not attempt, moreover, to interpret my ruling on objections as
4 somehow indicating how I think you should decide the case. I
5 am simply making a ruling on a legal question regarding that
6 particular piece of testimony or exhibit.

7 There has been evidence that the defendant made
8 statements about the case prior to trial. You may use that
9 evidence, however, only to help you decide if the defendant
10 said something different earlier and if what the defendant
11 said here in court was true. You must not, however, consider
12 what was said earlier as any proof of evidence of the guilt of
13 the defendant for the crimes charged in the second superseding
14 indictment.

15 I instruct you that you must presume the defendant
16 to be innocent of the crimes charged. Thus, the defendant,
17 although accused of crimes in the second superseding
18 indictment, begins the trial with a clean slate with no
19 evidence against him.

20 The second superseding indictment, as you already
21 know, is not evidence of any kind. The defendant is, of
22 course, not on trial for any act or crime not contained in the
23 second superseding indictment. The law permits nothing but
24 legal evidence presented before the jury and Court to be
25 considered in support of any charge against the defendant.

1 The presumption of innocence alone, therefore, is efficient to
2 acquit the defendant.

3 The burden is always upon the prosecution to prove
4 guilt beyond a reasonable doubt. This burden never shifts to
5 a defendant, for the law never imposes upon a criminal
6 defendant in a criminal case the burden or duty of calling any
7 witnesses or producing any evidence.

8 The defendant is not even obligated to produce any
9 evidence by cross-examining the witnesses for the government.
10 It is not required that the government prove guilt beyond all
11 possible doubt. The test is one of reasonable doubt. Unless
12 the government proves beyond a reasonable doubt that the
13 defendant has committed each and every element of the offense
14 charged in the second superseding indictment, you must find
15 the defendant not guilty of the offenses.

16 You are here to determine whether the government has
17 proven the guilt of the defendant for the charges in the
18 second superseding indictment beyond a reasonable doubt.
19 You're not called upon to return a verdict as to the guilt or
20 innocence of any other person or persons. So if the evidence
21 in the case convinces you beyond a reasonable doubt that the
22 guilt of the defendant for the crimes charged in the second
23 superseding indictment, you should so find, even though you
24 may believe that one or more other unindicted persons are also
25 guilty. But if any reasonable doubt remains in your mind

1 after impartial consideration of all the evidence in the case,
2 it is your duty to find the defendant not guilty.

3 A separate crime is charged in each count of the
4 second superseding indictment. Each charge in the evidence
5 pertaining to it should be considered separately by the jury.
6 The fact that you may find the defendant guilty and not guilty
7 as to one of the counts, should not control your verdict as to
8 any other count.

9 The rules of evidence ordinarily do not permit
10 witnesses to testify as to their own opinions or their own
11 conclusions about important questions in the trial. An
12 exception to this rule exists as to those persons who are
13 described as expert witnesses. An expert witness is someone
14 who, by education or by experience, may have become
15 knowledgeable in some technical scientific or other
16 specialized area. In such -- if such knowledge or experience
17 may be of assistance to you in understanding some of the
18 evidence or in determining a fact, an expert witness in that
19 area may state an opinion as to a matter in which he or she
20 claims to be an expert.

21 You should consider each expert opinion received in
22 evidence in this case and give it such weight, if any, as you
23 think it deserves. You should consider the testimony of an
24 expert witness just as you consider other evidence in this
25 case. If you should decide that the expert -- that the

1 opinion of an expert witness is not based upon sufficient
2 education or experience, or if you conclude that the reasons
3 given in support of the opinion are not sound or you should
4 conclude that the opinion is outweighed by other evidence,
5 including that of other expert witnesses, you may disregard
6 the opinion of, in part or in its entirety. As I have told
7 you several times, you, the jury, are the sole judges of the
8 facts of this case.

9 Charts or summaries have been prepared by the
10 government and shown to you during the trial for the purpose
11 of explaining facts that are alleged contained in books,
12 records, and other documents which are in evidence in the
13 case. Such charts or summaries are not evidence in this trial
14 or proof of any fact. If you find that these charts or
15 summaries do not correctly reflect facts or figures shown by
16 the evidence in this case, you should disregard the charts or
17 summaries.

18 In other words, such charts or summaries are used
19 only as a matter of convenience for you, and to the extent
20 that you find they are not in truth, summaries of facts or
21 figures shown by the evidence in the case, you can disregard
22 them entirely. Charts or summaries have been prepared by the
23 government have been admitted into evidence and had been shown
24 to you during the trial for the purposes of explaining the
25 facts that are allegedly contained in books, records, or other

1 documents which are also in evidence in the case.

2 You may consider the charts and summaries as you
3 would any other evidence admitted during the trial and give
4 them such weight or importance, if any, as you feel they
5 deserve.

6 Evidence relating to any alleged statement,
7 confession, admission, or act or omission alleged to have been
8 made are done by the defendant outside of the court and after
9 a crime has been committed should always be considered by the
10 jury with caution and weighed with great care. All such
11 alleged statements, confessions, or admissions should be
12 disregarded entirely, unless the other evidence in the case
13 convinces you, the jury, beyond a reasonable doubt that the
14 statement, confession, admission, or act, or omission was made
15 or done knowingly and voluntarily.

16 In determining whether any alleged statement,
17 confession, admission, or act or omission alleged to have made
18 by the defendant outside of court and after the crime has been
19 committed was knowingly and voluntarily made or done, the jury
20 should consider the age, training, education, occupation, and
21 physical and mental condition of the defendant and his
22 treatment while in custody or under interrogation as shown by
23 all of the evidence in the case.

24 Also consider all other circumstances and evidence
25 surrounding the making of the alleged statement, confession,

1 or admission. If after considering the evidence you determine
2 that a statement, confession, admission, or act, or omission
3 was made or done knowingly and voluntarily, you need to give
4 it such weight as you feel it deserves under the
5 circumstances.

6 Your decision on the facts of this case should not
7 be determined by the number of witnesses testifying for or
8 against a party. You should consider all of the facts and
9 circumstances and evidence to determine which of the witnesses
10 you choose to believe or not believe. You may find that the
11 testimony of a smaller number of witnesses on one side is more
12 credible than the testimony of a greater number of witnesses
13 on the other side.

14 Statements knowing and voluntarily made by the
15 defendant upon being informed that a crime has been committed
16 or being accused of a criminal charge may be considered by the
17 jury. When the defendant voluntarily offers an explanation or
18 voluntarily makes some statement, tending to show his
19 innocence and it is later shown that the defendant knew that
20 the statement or explanation was false, the jury may consider
21 this as showing a consciousness of guilt on the part of the
22 defendant since it is reasonable to infer that an innocent
23 person does not usually find it necessary to invent or
24 fabricate an explanation or statement, tending to establish
25 his innocence.

1 Whether or not evidence as to a defendant's
2 explanation or statement points to a consciousness of guilt on
3 his part and a significance, if any, to be attached to any
4 such evidence are matters exclusively within the province of
5 the jury since you are the sole judges of the facts of the
6 case.

7 And your evaluation of evidence of an exculpatory
8 statement shown to be false, you may consider that there may
9 be reasons fully consistent with innocence, it could cause a
10 person to give a false statement, showing that he did not
11 commit a crime. Fear of law enforcement, reluctance to be
12 involved, and simple mistakes may cause a person who has
13 committed no crime to give such a statement or explanation.

14 You as jurors are the sole exclusive judges of the
15 credibility of each of the witnesses called to testify in this
16 case and only you determine the importance of the weight, if
17 any, that their testimony deserves. After making your
18 assessment concerning the credibility of a witness, you may
19 decide to believe all of the witnesses' testimony, only a
20 portion of it, or none of it.

21 In making your assessment of that witness, you
22 should carefully scrutinize all of the testimony given by that
23 witness, the circumstances under which each witness has
24 testified, and all of the evidence which tend to show whether
25 a witness in your opinion is worthy of belief. Consider each

1 witness's intelligence, motive to falsify, state of mind, and
2 appearance in manner while on the witness stand. Consider the
3 witness's ability to observe the matters as to which he or she
4 has testified and considered whether he or she impresses you
5 as having an accurate memory or recollection of these matters.

6 Consider also any relation a witness may bear to
7 either side of the case, the manner in which each witness may
8 be affected by your verdict, and the extent to which, if at
9 all, each witness is either supported or contradicted by other
10 evidence in the case. Inconsistencies or discrepancies in the
11 testimony of a witness or between the testimony of different
12 witnesses may or may not cause you to believe -- excuse me --
13 to disbelieve or discredit such testimony.

14 Two or more persons witnessing an incident or a
15 transaction may simply see it or hear it differently.
16 Innocent misrecollection, like failure of recollection, is not
17 an uncommon human experience. In weighing the effect of a
18 discrepancy, however, always consider whether it pertains to a
19 matter of importance or an insignificant detail and consider
20 whether discrepancy results from innocent error or from
21 intentional falsehood.

22 After making your own judgment or assessment
23 concerning the believability of a witness, you can then attach
24 such importance or weight to that testimony, if any, that you
25 feel it deserves. You will then be in a position to decide

1 whether the government has proven the charges beyond a
2 reasonable doubt.

3 The testimony of a defendant should be judged in the
4 same manner as the testimony of any other witness.

5 The testimony of an immunized witness, someone who
6 has been told either that their crimes would go unpunished in
7 return for their testimony or that their testimony will not be
8 held against them in return for their cooperation from the
9 government, must be examined and weighed by the jury with
10 greater care than the testimony of someone who is appearing in
11 court without the need for such an agreement with the
12 government.

13 Elijah Kyle-Canady and Kollin Worlds may be
14 considered to be immunized witnesses in this case. The jury
15 must determine whether the testimony of any immunized witness
16 has been affected by self-interest or by the agreement they
17 have with the government or by their own interest in the
18 outcome of the case or by prejudice against the defendant.

19 The testimony of a drug or alcohol abuser must be
20 examined and weighed by the jury with greater care than the
21 testimony of a witness who does not abuse drugs or alcohol.

22 Elijah Kyle-Canady, Kollin Worlds, Laila Sheehy, Hector Flores
23 may be considered to be abusers of drugs or alcohol. The jury
24 must determine whether the testimony of the drug or alcohol
25 abuser has been affected by drug or alcohol abuse or the need

1 for drugs or alcohol.

2 The testimony of a witness may be discredited or at
3 least sometimes, say, impeached, by showing that he or she
4 previously made statements, which are different than or
5 inconsistent with his or her testimony here in court. The
6 earlier inconsistent or contradictory statements are only
7 admissible to discredit or impeach the credibility of the
8 witness and not to establish the truth of these earlier
9 statements made somewhere other than here during the trial.

10 It is the province of the jury to determine the
11 credibility of a witness who has made prior inconsistent or
12 contradictory statements. If a person has shown to have
13 knowingly testified falsely concerning any important or
14 material matter, you, obviously, have a right to distrust the
15 testimony of such an individual concerning other matters. You
16 may reject all the testimony of that witness or give it such
17 weight or credibility as you may think it deserved.

18 You should judge the testimony of the defendant in
19 the same manner as you judged the testimony of any other
20 witnesses in the case.

21 A second superseding indictment is only a formal
22 method used by the government to accuse the defendant of a
23 crime. It is not evidence of any kind against the defendant.
24 The defendant is presumed to be innocent of the crimes
25 charged. Even though the second superseding indictment has

1 been returned against the defendant, the defendant begins this
2 trial with absolutely no evidence against him. The defendant
3 has pled not guilty to the second superseding indictment and,
4 therefore, denies that he is guilty of the charges.

5 The second superseding indictment charges that the
6 offense alleged in Counts 1, 2, and 3 were committed on or
7 about or in or around a certain date. Although it's necessary
8 for the government to prove beyond a reasonable doubt that the
9 offenses were committed on a date reasonably near the dates
10 alleged in counts 1, 2, and 3 of the second superseding
11 indictment, it is not necessary for the government to prove
12 that the offense was committed precisely on the date charged.

13 Intent and motive are different concepts that should
14 never be confused. Motive is what prompts a person to act or
15 fail to act. Intent refers only to the state of mind with
16 which the act is done or omitted. Personal advancement and
17 financial gain, for example, are two well-recognized motives
18 for much of human conduct. These praiseworthy motives,
19 however, may prompt one person to voluntary acts of good while
20 prompting another person to voluntary acts of crime. Good
21 motive alone is never a defense whether the act done or
22 omitted is a crime. The motive of the defendant is therefore
23 immaterial except insofar as evidence of motive may aid in the
24 determination of state of mind or the intent of the defendant.

25 The intent of a person or the knowledge that a

1 person possesses at any given time may not ordinarily be
2 proved directly because there is no way of directly
3 scrutinizing the workings of the human mind. In determining
4 the issue of what a person knew or what a person intended at a
5 particular time, you may consider any statement made or acts
6 done or omitted by that person, and all other facts and
7 circumstances received in evidence, which may aid in your
8 determination of that person's knowledge or intent. You may
9 infer, but you're certainly not required to infer, that a
10 person intends natural and probable consequences of acts
11 knowingly done or knowingly admitted. It is entirely up to
12 you, however, to decide what facts to find from the evidence
13 received during the trial.

14 Evidence that an act was done or that an offense was
15 committed by the defendant at some other time is not, of
16 course, any evidence or proof whatever that at another time
17 the defendant performed a similar act or committed a similar
18 offense, including the offenses charged in the second
19 superseding indictment.

20 Evidence of a similar act or offense may not be
21 considered by the jury in determining whether the defendant
22 actually performed the physical acts charged in the second
23 superseding indictment. Normally, such evidence be considered
24 for any other purpose whatever unless the jury finds beyond a
25 reasonable doubt from other evidence in the case, standing

1 alone, that the defendant physically did the acts charged in
2 the second superseding indictment.

3 If the jury finds beyond a reasonable doubt from
4 other evidence in the case that the defendant did the act or
5 acts alleged in the particular count under consideration, the
6 jury may then consider evidence as to an alleged earlier or
7 subsequent act of a like nature in determining the state of
8 mind or intent with which the defendant did the acts or acts
9 charged in the particular count. The defendant is not on
10 trial for any acts or crimes not alleged in the second
11 superseding indictment. Nor may a defendant be convicted of
12 the crimes charged even if you are to find that he committed
13 other crimes, even crimes similar to the one charged in the
14 second superseding indictment.

15 The government may prove that the defendant acted
16 knowingly by proving beyond a reasonable doubt that this
17 defendant deliberately closed his eyes to what would otherwise
18 have been obvious to him. No one can avoid responsibility for
19 a crime by deliberately ignoring what is obvious. A finding
20 beyond a reasonable doubt of an intent of the defendant to
21 avoid knowledge or enlightenment would permit the jury to find
22 knowledge.

23 Stated another way, a person's knowledge of a
24 particular fact may be shown from a deliberate or intentional
25 ignorance or deliberate or intentional blindness to the

1 existence of that fact. It is, of course, entirely up to you
2 whether you find any deliberate ignorance or deliberate
3 closing of the eyes and any inferences to be drawn from any
4 such evidence. You may not conclude that the defendant had
5 knowledge, however, from proof of a mistake, negligence,
6 carelessness or a belief in an inaccurate proposition.

7 The Court instructs you, the jury, that although the
8 second superseding indictment may charge a defendant with
9 committing an offense in several ways, using conjunctive
10 language like "and," it is sufficient that the government
11 proves the offense in the disjunctive, or that is to say the
12 jury may convict on a unanimous finding of any of the elements
13 of a conjunctively charged offense. Therefore, I instruct you
14 that it is not necessary for the government to prove that the
15 defendant did each of those things named in the particular
16 count of the superseding indictment. It is sufficient if the
17 government proves beyond a reasonable doubt that the defendant
18 did one of the alternative acts charged as long as you all
19 agree that that same particular alternative act was committed.

20 Count 1 of the second superseding indictment charges
21 that on or about October 25, 2019, in Fairfax County,
22 Virginia, within the Eastern District of Virginia, the
23 defendant, Melvin Palma Flores, did knowingly and
24 intentionally and unlawfully possess with the intent to
25 distribute a mixture and substance containing a detectable

1 amount of marijuana, a Schedule I controlled substance.

2 Specifically, one, having determined that the
3 illegal importation, manufacture, distribution, and
4 possession, and improper use of controlled substances have a
5 substantial and detrimental effect on the health and general
6 welfare of the American people, Congress enacted the
7 Controlled Substance Act codified at Title 21 United States
8 Code sections 801 and following: There are five scheduled --
9 there are five schedules of controlled substances known as
10 Schedules I, II, III, IV, and V. Substances are scheduled
11 depending on their potential for abuse and recognized medical
12 usage. Marijuana is a Schedule I controlled substance. At
13 all times, relevant to this second superseding indictment, the
14 defendant was involved in the distribution of marijuana as a
15 means to make money.

16 The defendant acquired marijuana from a source or
17 sources of supply and redistributed the marijuana to his
18 customers for profit. The defendant possessed firearms
19 including for protection in carrying out his marijuana
20 distribution activities. The defendant used a cell phone to
21 communicate with his customers and other associates involved
22 in marijuana distribution.

23 Including through online social media platforms, on
24 or about October 25, 2019, XB contacted the defendant
25 extensively to arrange for some of XB's associates to purchase

1 marijuana from the defendant. In reality, XB and his
2 associates intended to steal marijuana from the defendant. On
3 or about October 25, 2019, XB's associates, individual 1 and
4 individual 2 met the defendant at the defendant's home located
5 in Fairfax County within the Eastern District of Virginia.
6 The defendant had in his possession a quantity of marijuana
7 that he intended to distribute to XB and his associates.
8 Instead, individual 1 stole the quantity of marijuana from the
9 defendant and brought it to XB.

10 During this encounter, the defendant displayed a
11 black semiautomatic handgun but did not use it. Later that
12 day, the defendant picked up one of his associates, individual
13 3 from an apartment in the Mount Vernon area of Fairfax
14 County. The defendant and individual 3 met up with the
15 defendant's girlfriend, individual 4. The defendant,
16 individual 3, and individual 4 traveled in individual 4's car
17 to the area of XB's apartment, also located in Fairfax County,
18 Virginia.

19 On or about October 26, 2019, as retaliation for
20 setting up the earlier robbery and in furtherance of his
21 ongoing marijuana distribution business, the defendant used
22 and discharged a firearm shooting XB twice and killing him.
23 The defendant also killed -- excuse me -- the defendant
24 unlawfully killed XB with malice aforethought and that he did
25 so from a premeditated design. After the defendant killed XB,

1 the defendant -- to cover up and conceal his involvement in
2 the murder, the defendant dismantled and disposed of the
3 firearm he used. The defendant also burned articles of
4 clothing he had been wearing at the time.

5 In and around October 2020, the defendant wrote a
6 letter addressed to individual 4. In that letter, he directed
7 individual 4 to lie to law enforcement and say that individual
8 3 had committed the murder of XB rather than the defendant.
9 He further directed individual 4 to recant individual 4's
10 prior truthful statement to law enforcement and that the --
11 that the defendant had killed XB.

12 The defendant arranged with an identified person to
13 deliver the letter to defendant's friend JL; JL then gave the
14 letter to individual 4. The defendant wrote the letter and
15 arranged for it to go to individual 4 in an attempt to
16 corruptly persuade individual 4 with the intent to influence
17 or prevent the testimony of individual 4 in an official
18 proceeding and to cause or induce individual 4 to withhold her
19 testimony from an official proceeding.

20 Section 841 of Title 1 of the United States Code
21 provides in part, A, "It shall be unlawful for any person
22 knowingly or intentionally, one, to possess with intent to
23 distribute a controlled substance."

24 In order to sustain this burden of proof of the
25 crime of possession of a controlled substance with intent the

1 distribute, that substance charged in Count 1 of the second
2 superseding indictment, the government must prove the
3 following three essential elements beyond a reasonable doubt:
4 One, that the defendant knowingly possessed a controlled
5 substance described in the second superseding indictment.
6 Two, that the defendant knew that this substance was
7 marijuana. And three, that the defendant intended to
8 distribute some or all of this controlled substance.

9 The term "knowingly" as used in these instructions
10 to describe the alleged state of mind of the defendant, means
11 that he was conscious and aware of his actions, realized what
12 he was doing or what was happening around him, and did not act
13 because of ignorance, mistake or accident. Knowledge may also
14 be inferred from a deliberate disregard for truth or falsity
15 with a conscious purpose to avoid learning the truth.

16 The word possess means to own or to exert control
17 over. The word possession can take on several different but
18 related meanings. The law recognizes two kinds of possession.
19 Actual possession and constructive possession. A person who
20 has knowingly has direct physical control over a thing at a
21 given time is then in actual possession of it.

22 A person who, although not in actual possession,
23 knowingly has both the power and intention at a given time to
24 exercise dominion over -- or control over a thing, either
25 directly or through another person or persons, is then in

1 constructive possession of it. The law also recognizes that
2 possession may be sole or joint. If one person alone has
3 actual constructive possession of a thing, then possession is
4 sole. If two or more persons share actual construction and
5 possession of a thing, then possession is joint. You may find
6 that the elements of possession, as that term is used in these
7 instructions, is present if you find beyond a reasonable doubt
8 that the defendant had actual or constructive possession
9 either alone or jointly with others.

10 A defendant's mere presence at a location where an
11 item is found or his mere association with another person who
12 possesses that item, is not sufficient to establish
13 constructive possession. However, proximity to the item
14 coupled with actual inferred knowledge or of his presence may
15 be sufficient proof to establish constructive possession.
16 Constructive possession does not require proof that the
17 defendant actually owned the property on which the item was
18 found.

19 The term "to distribute" as used in these
20 instructions, means to deliver or to transfer possession or
21 control of something from one person to another. The term "to
22 distribute," includes, but is not limited to, the sale of
23 something by one person to another.

24 The phrase "with intent to distribute" means to have
25 in mind or to plan in some way to deliver or to transfer

1 possession or control over a thing to someone else. In
2 attempting to determine the intent of a person, you may take
3 into consideration all facts and circumstances shown by the
4 evidence received in the case concerning that person.

5 In determining a person's intent to distribute
6 controlled substances, the jury may consider among other
7 things: The purity of the controlled substances, the quantity
8 of the controlled substance, the presence of the equipment
9 used in possession or sale of controlled substance, and large
10 amounts of cash or weapons. The government must prove beyond
11 a reasonable doubt that the defendant intended to distribute
12 the controlled substances alleged in the second superseding
13 indictment.

14 You are instructed as a matter of law that marijuana
15 is a controlled substance. It is solely for the jury,
16 however, to determine whether or not the government has proved
17 beyond a reasonable doubt that the defendant possessed with
18 intent to distribute marijuana, a Schedule I controlled
19 substance.

20 For Count 1, the evidence received in this case need
21 not be proved -- in this case, need not prove the actual
22 amount of the controlled substances that were -- that was part
23 of the alleged transaction, or the exact amount of the
24 controlled substance alleged in the second superseding
25 indictment as possessed with intent to distribute by the

1 defendant. The government must prove beyond a reasonable
2 doubt, however, that a measurable amount of the controlled
3 substance was, in fact, knowingly and intentionally possessed
4 with the intent to distribute by the defendant.

5 It is not necessary for the government to prove that
6 the defendant knew the precise nature of the controlled
7 substance that were possessed with the intent to distribute.
8 The government must prove beyond a reasonable doubt, however,
9 that the defendant did know that some type of controlled
10 substance was possessed with intent to distribute.

11 Count 2 of the second superseding indictment charged
12 that on or about October 26, 2019, in Fairfax County,
13 Virginia, within the Eastern District of Virginia, the
14 defendant, Melvin Palma Flores, did knowingly use, carry,
15 brandish, and discharge a firearm during and in relation to a
16 drug trafficking crime for which he may be prosecuted -- bless
17 you -- in the court of the United States namely; possession
18 with intent to distribute marijuana as set forth in charge in
19 Count 1 of the second superseding indictment. And as ongoing
20 distribution of marijuana and knowingly and willfully causing
21 the death of XB through the use of the firearm, such that the
22 killing was first degree, as defined in 18 U.S.C. Section
23 1111(a), and that the defendant with premeditation and malice
24 aforethought did unlawfully kill XB by shooting him with a
25 firearm.

1 Sections 924(c)(1)(A) of Title 18 in the United
2 States Code provides in part, that it shall be unlawful for
3 any person, who during and in relation to any drug trafficking
4 crime for which a person may be prosecuted in a court of the
5 United States, uses or carries a firearm, or who, in
6 furtherance of any such crime, possess a firearm.

7 Section 924(j) of Title 18 of the United States Code
8 provides in part that a person who, in the course of a
9 violation of Section C causes a death of a person through the
10 use of a firearm shall, one, if the killing is murder as
11 defined in Section 1111, be punished by imprisonment for any
12 term of years or life.

13 In order to sustain this burden of proof for the
14 crimes of using -- the crime of using a firearm in relation to
15 a drug trafficking crime, resulting in death as charged in
16 Count 2 of the second superseding indictment, the government
17 must prove the following essential elements beyond a
18 reasonable doubt: One, that the defendant used or carried a
19 firearm; two, that the defendant did so in relation to a drug
20 trafficking crime, which may be prosecuted at in federal
21 court; and that the defendant caused the death of a person
22 through the use of a firearm; that the killing was -- and,
23 four, that the killing was murder as defined in these
24 instructions.

25 The term "murder," as used in these instructions,

1 means the unlawful killing of a human being with malice
2 aforethought. The distinction between the first and
3 second-degree murder is a presence or absence of
4 premeditation.

5 As used in these instructions, the term "malice
6 aforethought" means either to kill another person deliberately
7 and intentionally -- and intentionally or to act with callous
8 and wanton disregard for human life. To prove malice
9 aforethought, the government does not have to show that the
10 government -- that the defendant -- excuse me -- harbored
11 hatred or ill-will against the victim or others, nor does the
12 government have to prove an intent to kill or injure. The
13 government may prove malice by evidence of conduct, which is
14 reckless and wanton and a gross deviation from a reasonable
15 standard of care of such a nature that you, the jury, may
16 infer that the defendant was aware of a serious risk of death
17 or serious bodily harm. Thus, the government need only prove
18 that the defendant acted with a depraved heart, that is
19 without the regard for the life and safety of others, and that
20 a death resulted.

21 Premeditation involves a prior design to commit
22 murder, but no particular period of time is necessary for such
23 deliberations and premeditation. There must be some
24 appreciable time for reflection and consideration before
25 execution of the act, although the period of time does not

1 require the lapse of days or hours or even minutes. Perhaps
2 the best it can be said of deliberation is that it required a
3 cool mind that is capable of reflection and a premeditation
4 that is -- that is required that the one with the cool mind
5 did, in fact, reflect at least for a short period of time
6 before his act of killing.

7 The term "firearm" means, A, any weapon including a
8 starting gun, which will or is designed or may readily be
9 converted to expel a projectile by the action of an explosion;
10 B, the frame or receiver of any such weapon; C, any firearm
11 muffler or firearm silencer; or D, any destructive device.
12 The term "firearm" does not include antique firearm. You need
13 not find that the firearm was loaded or that it was operable
14 at the time of the offense.

15 The term "drug trafficking crime" means an offense
16 that is a felony and involves the distribution, manufacture,
17 or importation of any controlled substances. The offense
18 alleged in Count 1 of the superseding -- second superseding
19 indictment possession with intent to distribute marijuana is a
20 drug trafficking crime.

21 "In furtherance of" means the act of furthering,
22 advancing, or helping forward. Therefore, as to Count 3, the
23 government must prove that the possession of a firearm
24 furthered, advanced, or help forward the drug trafficking
25 crime. For drug trafficking crimes, factors that the jury may

1 consider in making this determination may include the
2 following -- I'm sorry.

3 The type of drug activity that was being conducted,
4 accessibility of the firearm, the type of firearm, whether the
5 firearm was stolen, the status of the possession, whether it
6 was legitimate or illegal, whether the firearm was loaded, the
7 proximity of the firearm to either drugs or drug profit, the
8 time and circumstances under which the firearm was found,
9 whether the firearm provided defense against the theft of
10 drugs and or reduced the probability that such a theft might
11 be attempted. The possession is in furtherance if the purpose
12 of the firearm is to protect or embolden the defendant.

13 MR. BEN'ARY: Your Honor, pardon the interruption.
14 That instruction, triple C --

15 THE COURT: Yes.

16 MR. BEN'ARY: -- relates to Count 2.

17 The second sentence begins, "Therefore, as to
18 Count 3" should be "Therefore, as to Count 2."

19 THE COURT: Okay. Ladies and gentlemen, I'm going
20 to read that instruction again.

21 Any objection?

22 MR. JENKINS: No objection.

23 MR. BEN'ARY: No objection.

24 THE COURT: The furtherance of means -- "in
25 furtherance of" means the act of furthering, advancing, or

1 helping forward. Therefore, as to Count 2, the government
2 must prove the possession of a firearm further -- furthered,
3 advanced, or help forward the drug trafficking crime. For the
4 drug trafficking crimes, factors that the jury may be consider
5 in making this determination may include following: The type
6 of drug activity that was being conducted, accessibility of
7 the firearm, the type of firearm, whether the firearm was
8 stolen, the status of the possession, whether it was
9 legitimate or illegal, whether the firearm was loaded, the
10 proximity of firearm to either drugs or drug profits, the time
11 and circumstances under which the firearm was found, whether
12 the firearm provided the defense against theft of drugs and or
13 reduced the probability of such a theft might be attempted.

14 The possession is in furtherance if the purpose of
15 the firearm is to protect or embolden the defendant.

16 Distribution of drugs in the common sense
17 recognition that drug dealing is a dangerous and violent
18 enterprise supporting inference that the defendant's
19 possession of a firearm was to facilitate drug dealing. The
20 frame uses or carries a firearm means having a firearm or
21 firearms available to assist or aid in the commission of the
22 crime identified in Count 2 of the second superseding
23 indictment. In the determining whether the defendant used or
24 carried a firearm, you may consider all of the factors
25 received in evidence in the case, including the nature of the

1 underlying crime of violence or drug trafficking alleged, the
2 proximity of the defendant to the firearms in question --
3 firearm in question, the usefulness of the firearm to the
4 crime alleged, and the circumstances surrounding the presence
5 of the firearm.

6 The government is not required to show the defendant
7 actually displayed or fired the weapon. The government is
8 required to prove beyond a reasonable doubt, however, that the
9 firearm was in the defendant's possession or under the
10 defendant's control at the time that a drug trafficking crime
11 was committed.

12 The use -- to use a firearm requires active
13 employment, which includes brandishing, displaying, bartering,
14 striking with, and firing or attempt to fire a firearm;
15 however, would not include storing a firearm near drugs or
16 drug proceeds.

17 The term "carry" requires knowing, possession, and
18 movement conveying, transporting, or bearing the firearm in
19 some manner; however, the firearm does not have to readily --
20 be readily accessible.

21 A firearm is used or carried in relation to a drug
22 trafficking crime of the firearm with some purpose or effect
23 with respect to the drug trafficking crime, and if its
24 presence was not the result of accidents or coincidence. The
25 firearm must facilitate or have the potential of facilitating

1 the drug trafficking crime. If a firearm is carried for
2 protection or intimidation, it is carried in relation to the
3 drug trafficking offense.

4 Count 3 of the second superseding indictment charges
5 that in or around October 2020 in the Eastern District of
6 Virginia, the defendant, Melvin Palma Flores, did knowingly
7 attempt to corruptly persuade individual 4 with the intent to
8 influence and prevent the testimony of individual 4 in an
9 official proceeding and with the intent to cause or induce
10 individual 4 to withhold her testimony from an official
11 proceeding, namely the case of the United States versus Melvin
12 Palma Flores in violation of Title 18 United States Code
13 Section 1512(b)1.

14 Section 1512(b)1 of the United States Code provides
15 in pertinent part that whoever knowingly uses intimidation or
16 physical force threatens or corruptly persuades another person
17 with intent to influence, delay or prevent the testimony of
18 any person in an official proceeding shall be guilty of an
19 offense against the United States.

20 In order to sustain its burden of proof of crime of
21 knowingly intimating a witness as charged in Count 3 of the
22 superseding -- second superseding indictment, the government
23 must prove the following two essential elements beyond a
24 reasonable doubt. One, the defendant knowingly intimidated or
25 use physical force, corrupt persuasion against the person

1 identified in the second superseding indictment as a witness;
2 and, two, that the defendant did so intending to influence,
3 delay, or prevent the testimony of that person in an official
4 proceeding.

5 The term "intimidation" as used in these
6 instructions means the use of any words or any actions that
7 would harass, frighten, or threaten a reasonable ordinary
8 person to do something that person would not otherwise do or
9 not to do something that the person otherwise would do.

10 The term "physical force" means physical action
11 against another and includes confinement.

12 The phrase "with intent to influence, delay, or
13 prevent testimony" means to act for the purpose of causing any
14 person to change their testimony information in any way or to
15 withhold testimony or information permanently or only for a
16 period of time.

17 The government is not required to prove that the
18 person to be threatened or intimidated actually felt
19 threatened or intimidated or influenced or that there was any
20 actual delay or withholding of that person's testimony. The
21 government must prove beyond a reasonable doubt, however, that
22 the defendant acted with intent to influence, delay or prevent
23 testimony.

24 During the trial, you've heard testimony of a
25 witness and argument by counsel that the government did not

1 utilize specific investigative techniques. You may consider
2 these facts in deciding whether the government has met its
3 burden of proof, because as I told you, you should look at all
4 of the evidence or lack of evidence in deciding whether the
5 defendant is guilty. However, you should also -- you are also
6 instructed that there's no legal requirement that the
7 government use any specific language to prove -- or
8 investigative techniques to prove its case. Law enforcement
9 techniques are not your concern. I'm sure that at least one
10 of you have seen the popular TV shows CSI and Law & Order.
11 The TV standards and the capabilities of law enforcement as
12 portrayed on TV and in the movies do not apply here to this
13 trial. Witness testimony is sufficient to establish the
14 degree -- witness testimony is sufficient to establish the
15 charges in this case. Specific investigative techniques such
16 as DNA and fingerprints are not required to be presented in
17 order for you to find the defendant guilty of the charges in
18 the case. Please dismiss from your deliberations in
19 consideration of the appropriate verdict in this case any
20 investigative techniques which you have -- may have seen on TV
21 or in the movies as well as anything else about which there
22 was no evidence. Your concern, as I have said, is to
23 determine whether or not on the evidence or lack of evidence,
24 the defendant's guilt has been proven beyond a reasonable
25 doubt.

1 Upon retiring to your jury room to begin your
2 deliberations, you must select one of your members to act as
3 your foreperson. The foreperson will preside over your
4 deliberations will be your spokesman here in court --
5 spokesperson here in court -- sorry. Your verdict must
6 represent the collective judgment of you, the jury. In order
7 to return a verdict, it is necessary that each juror agree to
8 it. Your verdict, in other words, must be unanimous. It is
9 your duty as juror to consult with one another and to
10 deliberate with one another with a view toward reaching an
11 agreement if you can do so without violence to individual
12 judgment. Each of you must decide the case for himself or
13 herself but do so only after the impartial consideration of
14 the evidence in the case with your fellow jurors. In the
15 course of your deliberations, do not hesitate to examine your
16 own views and to change your opinion if convinced it is
17 erroneous. Do not surrender your honest conviction, however,
18 solely because of the opinion of your fellow jurors or for the
19 mere purpose of thereby being able to return a unanimous
20 verdict.

21 Ladies and gentlemen of the jury, I'm going to give
22 you a verdict form to be presented to your foreperson and you
23 are to fill out each one of the areas that are designated on
24 the jury form. And I'm going to ask that in that regard that
25 each -- the foreperson of the jury sign the documents on the

1 last page. There are three pages here. You'll see, as I'm
2 illustrating here, there is a place for the foreperson to
3 sign. The foreperson should sign the verdict after, if you
4 all are able to reach a unanimous verdict.

5 Remember at all times that you are not partisans;
6 you are judges, judges of the facts of this case. Your sole
7 interest is to seek the truth from the evidence received
8 during the trial. Your verdict must be based solely on the
9 evidence received in this case.

10 Nothing you have seen or read outside of the court
11 may be considered. Nothing that I have said or done during
12 the course of the trial is intended in any way to somehow
13 suggest to you what I think your verdict should be.

14 Nothing said in these instructions, nothing in any
15 form of verdict should suggest or convey to you in any way or
16 manner any intimation as to what the verdict I think you
17 should return. What the verdict shall be is the exclusive
18 responsibility of you, the jury. As I have told you many
19 times, you are the sole judges of the facts.

20 The punishment provided by law for the offenses
21 charged in the second superseding indictment as the matter
22 exclusively within the province of the court and should never
23 be considered by the jury in any way in arriving at an
24 impartial verdict as to the offense charged.

25 You will take these forms to the jury room and when

1 you have reached the unanimous verdict as to your verdict, you
2 will have your foreperson write your verdict on the form, date
3 and sign the forms, and then return with your verdicts to the
4 courtroom. As I've indicated throughout, Ms. Tinsley is your
5 liaison. You just need to let her know, and we'll follow the
6 process as it becomes necessary. If it becomes necessary
7 during your deliberations to communicate with the Court, you
8 may send a note, signed by your foreperson or by one or more
9 members of the jury, through the court security officer,
10 Ms. Tinsley. No members of the jury should ever attempt to
11 communicate with the Court by any means other than a signed
12 writing, and the Court will never communicate with any member
13 of the jury, concerning the evidence or opinion or
14 deliberations other than in writing orally here in court.

15 You will note from the oath that you took -- you
16 will note from the oath -- I have stated throughout that you
17 are not to discuss the case or any aspect of the case with
18 anyone, and that is to be your collective judgment as to what
19 the responsibilities are. You should only discuss the case
20 when all persons are in the jury room and able to deliberate.
21 Bear in mind that you are also never to reveal to any person,
22 not even to the Court, how the jury stands numerically or
23 otherwise on the question of whether or not the government has
24 sustained its burden of proof until after you have reached the
25 unanimous verdict.

1 I am sending the exhibits, which have been received
2 in evidence during the trial with you as you retire for your
3 deliberations. These are the instructions of law that you are
4 to apply in this case. As I indicated earlier, I will be
5 providing to you a copy of these instructions, so you will be
6 able to have them individually.

7 At this point, ladies and gentlemen, the government
8 is entitled to present its closing argument. Then the defense
9 will be able to present its closing arguments. Because the
10 government bears the burden of proof throughout the
11 proceedings, the government will have an opportunity, if it
12 chooses to do so, to speak in rebuttal to the defense's
13 closing argument.

14 You're free to move about the well.

15 MR. BEN'ARY: Thank you, Your Honor.

16 THE COURT: Just a second, Mr. Ben'Ary. We have a
17 little movement in the back. Just hold up a second.

18 (A pause in the proceedings.)

19 THE COURT: I'm going to ask that the court security
20 officers, who are in the back of the courtroom, preclude
21 anyone else from coming in during the closing arguments.

22 Ladies and gentlemen who are here, if you need to
23 leave, this is your time to leave. I'm not going to allow
24 these closing arguments to be interrupted by people going in
25 and out of that door. So if you need to leave, this is your

1 time.

2 Thank you, Mr. Ben'Ary.

3 **CLOSING ARGUMENT**

4 MR. BEN'ARY: Thank you, Your Honor. Your Honor,
5 may it please the Court.

6 THE COURT: Yes, sir. Thank you.

7 MR. BEN'ARY: Mr. Jenkins, ladies and gentlemen of
8 the jury.

9 At the beginning of the trial, my colleague,
10 Ms. Rumbaugh, stood up here and told you about the defendant
11 bringing a gun over to Qwa Brown's residence on October 26,
12 2019. And it was there that this defendant, Melvin Palma
13 Flores, lured Qwa Brown out of his house, ambushed him, and
14 executed him. Retaliation for a drug robbery that Qwa Brown
15 had set up earlier on October 25th.

16 The evidence in this case has shown exactly that.
17 And that this ambush took some planning. It took the
18 defendant bringing a gun, we know that he possessed, because
19 he testified he had with him only six hours before the
20 shooting at his house.

21 It involved the defendant finding a means to
22 communicate with Qwa Brown in a way that wouldn't alert him
23 that the guy that he was in this dispute with over the course
24 of that day, October 25th, was about to come and pay him a
25 visit so that Qwa Brown couldn't defend himself. After that,

1 the defendant brought in his friend, mutual friend with
2 Qwa Brown, Kollin Worlds who happen to have Qwa Brown's
3 Snapchat saved in his contacts. Finally, the defendant needed
4 a ride because he couldn't show up at a scene where he was
5 about to commit a murder in his mother's gray minivan. So he
6 brought in Laila Sheehy.

7 Ladies and gentlemen, all of this planning, all of
8 this premeditation was designed for one purpose. And we know
9 based on the timing of the last communication between the
10 Snapchat accounts of Kollin Worlds and Qwa Brown and then the
11 near five minutes between the first 911 call that there was no
12 argument, there was no fight. And, in fact, we know from the
13 911 call, the crime scene evidence that Qwa Brown never got
14 off the steps. This defendant didn't give him that
15 opportunity. Went there for one purpose and that was to shoot
16 him and kill him and that's exactly what he did.

17 Ladies and gentlemen, we spent a lot of time during
18 the course of this trial talking about corroboration, what
19 facts corroborated with the facts. And I would submit to you
20 respectfully at this point, after the defendant's testimony,
21 there is a single fact that is in dispute and that is whether
22 it was the defendant who got out of the vehicle and shot
23 Qwa Brown or whether it was Kollin Worlds that got out of the
24 vehicle to shoot and kill Qwa Brown. I would respectfully
25 suggest to you that there's one version of that that makes all

1 of the other evidence in the case makes sense. There's
2 another version of it that throws everything else out of
3 whack, that causes mental gymnastics to try to understand the
4 motivations involved, why people said what they said when they
5 said it and just doesn't make common sense.

6 And I would respectfully suggest to you that the
7 version that makes everything else consistent and match up in
8 this case is the version that it was this defendant,
9 Melvin Palma Flores, that shot and killed Xyqwavius Brown on
10 October 26, 2019.

11 There are three charges in the indictment that you
12 are going to have to decide. The first one is whether the
13 defendant possessed with the intent to distribute marijuana.
14 And I would submit to you his testimony, I essentially asked
15 him elements of that offense during the beginning of my
16 cross-examination. He admitted he possessed marijuana on that
17 date; he did it with the intent to distribute. He knew it was
18 marijuana. Elijah Kyle-Canady told you that they smoked part
19 of that marijuana afterwards. It was, in fact, marijuana. I
20 would submit there's no legitimate question as to whether the
21 defendant is guilty on that count.

22 The defendant likewise admitted most of the elements
23 of Count 2, which is use of a firearm in furtherance of a drug
24 trafficking crime resulting in death, and that it was
25 premeditated murder. He admitted that he possessed a firearm.

1 He admitted he possessed it in furtherance in connection with
2 a drug trafficking crime. And again, we are left with the one
3 central question in the case, whether it was this defendant
4 that fired the bullets that ended Qwa Brown's life.

5 And ladies and gentlemen, we have more than what
6 Mr. Jenkins referred to in his opening statement as "she
7 said/he said." I would submit to you that, by the way, she
8 said/he said can be enough if the she and the he are found to
9 be credible witnesses. But here, ladies and gentlemen, it's
10 not he said/she said. Certainly, there are hes and shes that
11 say that it was the defendant that got out of the car. He
12 walked a couple of hundred yards that's depicted in the
13 photographs in evidence down to Qwa Brown's house; they hear
14 shots, he comes running back smelling like a firecracker and
15 directs him to go. And he goes to his cousin Hector's
16 apartment where he brings Hector out with a lighter to burn
17 the clothes, later telling him -- later telling him that he
18 is -- his brother burned the clothes because he's murdered
19 someone.

20 So there certainly is the she, Laila Sheehy, and he,
21 Kollin Worlds, providing that -- providing that information.

22 However, there is much more than that. There is
23 also telephone location records. And, of course, the
24 defendant admits to you now that he was there. And that's the
25 thing about business records, cell phone records, ladies and

1 gentlemen. They don't have a bias; they're not worried about
2 getting in trouble. They are collected by the phone company;
3 and when law enforcement collects them, they say what they
4 say. And here, they say the story went -- the facts -- the
5 course of that night went the way that Laila Sheehy told you,
6 they went the way that Kollin Worlds told you, and then went
7 now the way what the defendant has told you.

8 They show the defendant going to pick up Mr. Worlds
9 around Mount Vernon Square, they should've been going up to
10 pick up Laila Sheehy -- Sheehy in the Kingstowne area and then
11 they show the two phones in the area of Qwa Brown's house
12 shortly after midnight on the 10/26/2019. In addition to
13 that, there's another "he." There is Hector Flores,
14 defendant's cousin, who is not involved at all that night; and
15 there is no phone records showing that he was anywhere other
16 than perhaps his house. And he tells you that the defendant
17 showed up late at night, calls him up, gets him out of the
18 house, asked him to bring a lighter, the defendant burns some
19 clothes. And then sometime later, he asked the defendant what
20 was that about, and the defendant said "I killed someone."

21 Let's think about motivations, ladies and gentlemen
22 of the jury. Hector Flores has really nothing to do with this
23 case, I would submit, and he testified until he sees his name
24 in this letter. And I'm going to get to the letter in a
25 moment. He sees his name as mentioned as a potential witness

1 by the defendant as someone who was going to come in and
2 concoct some story for him. And at that point, he's contacted
3 by law enforcement, and he lets them know about what happened.
4 That the defendant burned his clothes, that he told him he
5 killed someone.

6 What's Hector's motivation at this point? What's
7 Hector's motivation to make that story up? Of course, the
8 defendant now says he's being truthful about the clothes.
9 Kollin asked me to burn the clothes so that part is true. But
10 he's making up the other part about me saying that I killed
11 someone. And why would Hector do that? What motivation does
12 Hector have? Certainly not to improve familial relations in
13 the Palma Flores family to come in and testify against your
14 cousin who has been charged with murder falsely.

15 I would submit to you, ladies and gentlemen, in
16 terms of believing whether it was the defendant or whether it
17 was Kollin Worlds, one of the most problematic pieces of
18 evidence, for the defendant, is his cousin Hector's testimony
19 that the defendant not only burned his clothes that night but
20 told Hector that he did it because he killed someone. Does it
21 make any sense for Kollin Worlds -- for the defendant when
22 Kollin says, Hey, burn my clothes, for the defendant to take
23 him to his cousin's house? Why would he take him to his own
24 cousin's house, somebody connected with him if he's not
25 involve with the shooting? Why would he then take Kollin's

1 clothes out and burn them for Kollin? You saw Kollin. He's
2 an able-bodied individual. There's no reason he couldn't use
3 a lighter just as well as the next guy. It doesn't make any
4 sense. I would suggest to you, for this defendant to take
5 Kollin's clothes to his own cousin's house, someone that's
6 going to be connected to him having just been involved in this
7 situation with shots fired. I would suggest 100 percent
8 inconsistent with Kollin Worlds being the shooter. It all
9 makes sense if, in fact, the defendant was the shooter as the
10 evidence proves in this case.

11 Now, in terms of motivations, certainly, you can
12 suggest that Kollin, if he was really the shooter, has a
13 motivation to lie. And I suppose you can suggest that Laila
14 has a motivation to falsify testimony because of the up and
15 down nature of her relationship with the defendant. But look
16 at the timing, ladies and gentlemen. Look at the timing of
17 what Laila says -- and I should be calling her Ms. Sheehy,
18 pardon me.

19 Look at the timing of what Ms. Sheehy says when says
20 it. You have in evidence a transcript of a 911 call that
21 Ms. Sheehy made.

22 And I think this is 7B, Ms. Lee, on page 6.

23 You have the actual recorded call in evidence, but
24 there's also a transcript to help you look for it.

25 Now, this 911 call comes in in December 29th, at the

1 time when Ms. Sheehy is in no contact with Kollin Worlds.
2 They're not friends. They haven't had romantic relationships.
3 There's nothing going on between the two of them. In fact,
4 until about a year prior to them hooking up at this New Year's
5 Eve party as they testified.

6 (Juror sneezed.)

7 MR. BEN'ARY: Bless you.

8 And what does Ms. Sheehy tell the police about this?
9 Who is the individual? Do you remember his name? And it's
10 butchered here, but Melvin Palmer, and then they get it
11 straight Melvin Palma.

12 So at that point before Ms. Sheehy and Mr. Worlds
13 are in communication at all, what motivation does she have at
14 this point in time to say that it was Melvin Palma?

15 And I would suggest there's no possibility of
16 coordination at that point. She is calling 911 to report the
17 same version of events that she testified to during trial in
18 this case, that it was, in fact, the defendant responsible for
19 the shooting, not Kollin.

20 And then, ladies and gentlemen, we've spent a lot of
21 time talking about Government's Exhibit 34. And this is the
22 letter that the defendant wrote to Ms. Sheehy from jail.
23 Giving her, basically, instructions on rounding up witnesses
24 to testify on his behalf.

25 Could you just pull up the first page?

1 Ladies and gentlemen, as we have talked about this
2 letter over and over again, you know that it's eight-plus
3 handwritten pages, you've seen certainly snippets of it. I'm
4 going to discuss some of it with you now, but I would ask and
5 encourage and implore you all to read this whole thing as you
6 go back to deliberate. And as you read it, think to yourself,
7 Is this the letter of someone who is waiting in jail falsely
8 accused, demanding that the truth get out there? Or is this
9 the letter of someone who knows he's guilty, desperately
10 trying to circle the wagons, to get as many witnesses in the
11 court as possible to lie on his behalf to cause confusion so
12 that he doesn't get convicted.

13 And let's talk about some of this. First of all, it
14 starts with, "Hey, babe, in this letter, I'm going to tell you
15 everything I can't on the phone." Again, if he was falsely
16 accused, he would not want to hide the fact that he was
17 falsely accused. He would be standing at the edge of the
18 highest cliff he could find broadcasting. He would want the
19 authority to know. I've been falsely accused. Go out there
20 and investigate and clear me of this terrible
21 misunderstanding. He doesn't say that. He hides it. He
22 smuggles it out of the jail.

23 "I truly forgive you for telling on me but now we
24 got to find a way to fix this." Ladies and gentlemen,
25 remember back to when you were child and think about what it

1 means to tell on someone. You got caught, you know, drawing
2 on the wall and your brother or sister told on you. It
3 doesn't mean they are framing you for something; it means that
4 they're reporting what happened to the authority figure, and
5 that's exactly what Laila Sheehy did here.

6 And does he tell her, You need to come forward with
7 the truth; I've been falsely accused; I've been framed? No,
8 he says, "We got to find a way to fix this." Lately, what I
9 have been thinking is that if they make you testify that you
10 say the whole reason we got into an argument that night is
11 because you wanted to tell the police that Kollin did it. I'm
12 paraphrasing through some of it. You can read the whole thing
13 word-for-word yourself.

14 "Lately what I have been thinking"; not, Hey, the
15 truth all along is; not, Hey, I need you to say what you
16 really know about this. Lately what I, Melvin Palma Flores,
17 have been thinking is that if they make you testify, you say,
18 and then he lays out his story. And guess what? It's a story
19 that blames the whole thing on Kollin just like you heard in
20 court during this trial. And it is 100 percent evident, I
21 would suggest to you, ladies and gentlemen, it is clear when
22 you read this letter in the context that that's what it is.
23 It's a made-up story, a fabric of the defendant's imagination
24 designed to get witnesses to lie on his behalf to obstruct
25 justice and to escape responsibility.

1 He goes on. He accuses her, at the top of page 2,
2 of snitching on him. Again, what do you understand the word
3 "snitching" to be? Not audio recording of you making up a
4 story of evidence of me committing this horrible crime of you
5 snitching on me. He continues. "As of right now, bae" -- in
6 the middle of the page -- "we all have to get our stories the
7 same. That way when I get this attorney, everything looks the
8 same and sounds the same."

9 Ladies and gentlemen, the words of an innocent man?
10 I would suggest to you not at all. "So everything looks the
11 same and sounds the same. So my whole game plan is that you
12 say when we got into an argument that night was because you
13 were tired of keeping your mouth shut" and about Kollin. It's
14 a made-up story that it was Kollin, not the defendant.
15 Someone who is in jail for a murder that they did not commit
16 and they're referring to the truth as their game plan? Ladies
17 and gentlemen, that does not make any sense.

18 And then the story that gets told here that he's
19 telling Laila to get on the same page with this, that it was
20 Kollin, it was really Kollin's marijuana, I was just selling
21 for him, everything that you heard from the defendant on the
22 witness stand. You can see him making it up right here in
23 this letter, Exhibit 34. And there's other suggestions in
24 here, ladies and gentlemen, that makes this point absolutely
25 clear. Bottom middle of the page, "Also, when we went to" --

1 uses the term "Forf," I'll say "that guy's." "Also, when we
2 went to that guy's crib, we were with Jason, unless he had
3 already told the police he was somewhere else during the
4 shoot-out." Okay. So there is only one truth, either Jason
5 was there or he wasn't there, and it doesn't matter what he
6 told the police. He was there or wasn't there. Here, he is
7 saying, "He was there unless he already told the police he was
8 somewhere else." The words of an innocent, ladies and
9 gentlemen, or the word for someone trying to circle the
10 wagons?

11 Why does he want Jason to come in and say he was
12 there? Because that way you have another witness that can
13 confirm your story.

14 Next page, 4. "The only bad thing, bae, was that in
15 your statement you said so much incriminating evidence."
16 Again, would it be described as incriminating evidence if she
17 was making up a story that included him being guilty of a
18 murder that he didn't commit? Or is it incriminating evidence
19 because it's evidence that tends to prove his guilt of the
20 crime of which he is accused?

21 The only bad thing was that in your -- in your
22 statement you said so much incriminating evidence. The words
23 of an innocent man, ladies and gentlemen? The only way you
24 can reverse that is saying, like, Detective Wallace threatened
25 you.

1 And you heard from Detective Wallace, you heard from
2 Ms. Sheehy. You are the judges of the credibility of the
3 witnesses. I would suggest to you none of this makes sense.
4 None of this version makes sense. It is evident that it is
5 just a ploy to get out of responsibility for this murder that
6 the defendant committed.

7 Also, next page, 5. "What I was thinking was you
8 and Jason go to my friend, Bryant's house, and tell him this
9 guy has not been involved. Tell him that Kollin did it, but
10 that he put the blame on me because one time when Bryant was
11 at the mall, he seen Kollin." Yada, yada. So maybe Bryant
12 can come in now and be one of those other witnesses that cause
13 some confusion. Bryant has got nothing to do with this, and
14 the defendant is asking Laila to go put this story in Bryant's
15 head so he can come into court to tell it to you to create
16 confusion.

17 "That way" -- bottom of the page -- "the more people
18 we have on our side, the better because that way the Feds do
19 not even see it coming." And that's it, ladies and gentlemen.
20 That's why the letter was smuggled out. That's why the letter
21 was smuggled out. Because if the Feds had time to investigate
22 this, it's going to be evident that it's all made up. Well,
23 guess what? We didn't hear from Bryant; we didn't hear from
24 Jason. The defendant has no burden of proof in this matter.
25 The burden of proof stays on the government the entire time

1 and not suggesting otherwise. But the circling of the wagons
2 did not work, ladies and gentlemen. And I trust and I would
3 employ you to read this letter carefully and think through
4 whether these are the words of an innocent man. "Tell Bryant
5 this version of the events so he can spit it back out in
6 court."

7 "Also, since you mentioned my cousin Hector" --
8 going onto page 6 -- "you got to tell him the plan and tell
9 him if he is willing to testify, and say that I came to his
10 house not to burn clothes; I came to his house to tell him
11 everything, because" -- again back to the Kollin -- "I was
12 afraid that Kollin was going to kill me to tie up loose ends."
13 Well, that -- that changed, right? That changed between the
14 writing in this letter and today. Today, the defendant
15 testified he did, in fact, burn the clothes over there.

16 But the plan was if they could get Hector on board,
17 the defendant could get Laila to get Hector on board was to
18 say that he came to his house. Again, at the time that Kollin
19 was in the car. Melvin drove over there to tell Hector, he
20 says in this letter how scared he was of Kollin. Does that
21 make any sense? Words of an innocent man, ladies and
22 gentlemen?

23 Little further down. "If you can tell Jason,
24 Hector, and Bryant to testify on my behalf, that is good
25 because that way we can cause some confusion in the court,

1 that way the jury does not find me guilty. Because honestly,
2 the Feds do not have that much evidence against my" -- "except
3 my phone location and me lying not being there."

4 So here it is, again, ladies and gentlemen. This is
5 the motivation behind this.

6 "That way the jury does not find me guilty because
7 they don't have that much evidence." It's not the jury won't
8 find me guilty because I am an innocent man, ladies and
9 gentlemen. I didn't do this. It was Kollin, and I'm being
10 set up. Nope. How is he going to get off? He's going to get
11 these folks to show up to court and cause as much confusion as
12 possible to try to get acquitted. I would suggest to you if
13 you read that letter, it's going to be evidently 100 percent
14 clear that that's exactly what is going on, ladies and
15 gentlemen.

16 I think I will leave this to you, ladies and
17 gentlemen, to read the rest of. The bottom line, ladies and
18 gentlemen, is that innocent people don't write letters like
19 this. Innocent people don't smuggle letters out of the jail
20 asking witnesses to lie for them in federal court trials.
21 Guilty people do this. People that shoot other people do
22 this. In this case, the defendant who shot and killed another
23 person wrote this letter, not because of anything he knew that
24 is true, but because he was hoping to escape responsibility by
25 creating confusion and pulling a wool over your eyes, ladies

1 and gentlemen. And I would suggest to you that you not let
2 that happen. Ladies and gentlemen, there's one story here
3 that makes all of the evidence make sense. And that is the
4 version of that that includes this defendant getting out of
5 the car, walking down that hill, and firing three shots at
6 Qwa Brown. One going through his shoulder, and then as he
7 ducks down -- the medical examiner's report talks about the
8 direction of that second wound going into the top of his head
9 and backwards and down.

10 Now, we spent a lot of time in this case talking
11 about and focused on the defendant focused on Kollin Worlds,
12 focused on Laila Sheehy. And I want to close my closing with
13 a few words about Qwa Brown.

14 If you can pull up --

15 Ladies and gentlemen, Qwa Brown was 19 years old on
16 October 26, 2019. And evidence in this case has shown that he
17 made a series of choices that put him in danger. He made
18 choices to be involved with marijuana. He made choices to
19 involve -- to be involved with others that conduct marijuana
20 robberies. He, himself -- you heard the evidence -- was
21 involved in conducting marijuana robberies.

22 And, in fact, he made the most dangerous choice of
23 all which was to set up this defendant, an armed marijuana
24 dealer, for a marijuana robbery.

25 None of that stuff is a good idea, ladies and

1 gentlemen. But Qwa Brown should have been given the
2 opportunity to grow and live better. He had a family. He had
3 a grandmother, Joyce Brown, that you heard from, that loved
4 him. She didn't deserve to walk out of her apartment after
5 her grandson lay bleeding, died on the steps up to her
6 apartment.

7 Ladies and gentlemen, Qwa Brown bears some
8 responsibility for putting himself in a dangerous situation,
9 but this defendant had no right to be the judge, jury, and
10 executioner. This defendant had no right to lure him out of
11 his home. This defendant had no right to point a gun at him.
12 This defendant had no right to fire three shots at him. At
13 any point, prior to those shots being fired, this defendant
14 could have walked away. That's why it's premeditated murder.
15 He had a chance to walk away. He had the entire evening. He
16 had all the way to the time when he was walking down the steps
17 to that apartment. He could have walked away at any time. He
18 could have chose not to pull the gun. He could have chose to
19 yell at Qwa Brown. He could have chose to try and grab his
20 weed back and run. He didn't. He chose to shoot him and kill
21 him, and there's nothing anyone can do to bring Joyce Brown
22 her grandson back. Qwa Brown paid the ultimate price for his
23 poor decisions. He got a much more severe punishment, I would
24 suggest, than he deserved.

25 Now, it's time that you hold this defendant

1 accountable and we ask that you find him guilty of all three
2 counts.

3 THE COURT: Thank you, sir.

4 Anybody that thinks they need to leave at this
5 point, can leave. If some people are standing outside of the
6 door, they can come in. Does anybody need a water? No
7 takers.

8 Mr. Jenkins.

9 MR. JENKINS: Thank you, Your Honor.

10 **CLOSING ARGUMENT**

11 MR. JENKINS: May it please the Court --

12 THE COURT: Yes, sir.

13 MR. JENKINS: -- Mr. Palma, government counsel.

14 Ladies and gentlemen of the jury, I want to start
15 off by thanking you for paying very close attention to the
16 evidence as it has come in here today. I know this is a
17 difficult case. A young man lost his life and that is tragic.
18 I join the government counsel in expressing how bad it was for
19 Ms. Brown to have to see her grandson in that condition. And,
20 yes, I also concur that young Mr. Brown made some poor choices
21 and as a consequence of those choices, he placed himself in
22 harm's way. I also agree that sadly he was shot and killed as
23 a consequence of those poor choices. But as I told you in the
24 very beginning, beyond the government's theory, this case was
25 simply about she said and he said. The judge has instructed

1 you about how you should go about applying the law to the
2 evidence in this case.

3 And I submit to you, ladies and gentlemen, that
4 after a fair and impartial consideration of the evidence in
5 this case, and not with sympathy, passion, or prejudice for
6 anyone involved in this case, the only true verdict you can
7 return with respect to Mr. Melvin Palma Flores, specifically
8 with respect to Count 2, is not guilty. Because, ladies and
9 gentlemen, I told you in the very beginning, this case was not
10 about whether or not Melvin Palma Flores engaged in marijuana
11 sales. It wasn't. It wasn't going to be about whether or not
12 young Mr. Qwa Brown engaged in marijuana sales. What this
13 case is really about, ladies and gentlemen, is who exited that
14 vehicle, walked down that hill, took a 9-millimeter GLOCK
15 firearm, and fired three shots at Mr. Qwa Brown.

16 Ladies and gentlemen, separate out of your mind what
17 Laila Sheehy said, what Kollin Worlds said to you, what
18 Hector Flores said to you, what are you left with? What are
19 you left with? No eyewitnesses, no surveillance cameras, no
20 forensic evidence, no DNA, no fingerprints. Nothing at all.
21 Government counsel will have you question, Well, why would
22 Ms. Sheehy, what was her motivation to falsely accuse her on
23 again, off again father of her child? She told you. This was
24 a bad relationship. It has good points, but it also has its
25 bad points. And what did she tell you happened in December of

1 2019? You heard from Detective Wallace also. They got into a
2 horrible fight, a terrible fight, a fight that led to
3 Mr. Palma Flores being charged with some
4 domestic-violence-related charges. And she told you, she was
5 angry with him. She wanted to get back at him. She wanted to
6 get him in trouble. And what did she then do? Not in
7 October, not in November, but in December after this incident.
8 For the very first time, she calls the law enforcement and she
9 says it was Mr. Palma Flores who committed the murder. She
10 gave you her motive. She told you why she did it. She even
11 admitted to me on cross-examination that she regretted doing
12 it.

13 The government would point to Kollin as the ultimate
14 cooperation. So you don't have to -- according to government,
15 you all have to just rely on Ms. Sheehy, you can also take the
16 word of Kollin. What do we know about Kollin? He begins a
17 sexual relationship with one of his closest friend's
18 girlfriends. He doesn't say anything about Mr. Palma Flores
19 having committed this offense until when? Until Ms. Sheehy
20 sends him a copy of Government's Exhibit 34, in which
21 Mr. Palma Flores is clearly identifying him as the perpetrator
22 of the murder. And it is at that point for the very first
23 time, after he gets his immunity agreement, that he meets with
24 law enforcement and his story now matches right up with the
25 woman who he's sleeping with. They both are saying, Yeah, we

1 went here, we went there that night, and it was Melvin, who
2 got out of the car and committed the shooting. What
3 corroboration do you have of that?

4 On cross-examination, government counsel tried to
5 point out, Well, the cell site data match it up. It matches
6 up exactly what the defendant said and what he testified.
7 They went from point A, point B, point C, the shooting
8 occurred and then they went to point D. That doesn't tell you
9 that Mr. Palma Flores is not telling the truth. It certainly
10 doesn't prove that Ms. Sheehy is telling the truth.

11 Ms. Sheehy tells you this fantastic story of
12 Mr. Palma Flores, separating the gun, throwing it away in two
13 different waterways. Detective Wallace said, you know,
14 Mr. Jenkins, you're right. Corroborating that fact would have
15 been significant. Corroborating that fact would have meant, I
16 didn't have to rely on just what Ms. Sheehy said. So
17 Ms. Sheehy told me where I could go, where I could find the
18 weapon. I called a dive team, they got together, we went to
19 the water, and guess what? We couldn't find the weapon.

20 It wasn't where she said it was.

21 Well, Ms. Sheehy said, Well, the ballistic evidence
22 says the guys who collected the casing all say it was a
23 9-millimeter Ruger. Nobody disputes it; nobody doubts it.
24 The defendant's home is raided. It's searched. He hasn't
25 gotten rid of all his ammunition. He hasn't gotten rid of any

1 firearms. He hasn't gotten rid of all the marijuana. It's
2 all there. And guess what? No 9-millimeter rounds. A .45,
3 yeah. Ammunition to fit the AR-15, yeah. No traces of a
4 9-millimeter. No corroboration at all. None at all.
5 Kollin Worlds tells you, Hey, I was in a car; I'm going with
6 Mr. Palma Flores, not exactly sure where we're going, but we
7 end up outside of Qwa Brown's apartment and Melvin takes my
8 phone and he starts communicating, going through his Snapchat.
9 Where is the corroboration for that?

10 Detective Wallace says, Look, that wouldn't really
11 be available. I can't tell you who was actually using the
12 phone, who was using the Snapchat account to communicate with
13 Qwa Brown other than what Kollin Worlds says. That's it.
14 They dumped Mr. Palma Flores' phone, they got the cell site
15 data for Ms. Sheehy's phone, and they dumped the phone of
16 Mr. Qwa Brown all in an attempt to collect data to corroborate
17 what she was saying and what he was saying. Detective Wallace
18 told you despite her effort, despite her desire for that type
19 of quality corroborative evidence, she was unable to present
20 it to you. We only have Kollin Worlds saying that it was not
21 him communicating with Qwa Brown moments before he was killed.
22 I want you to take a look at Government's Exhibit 47. That's
23 the chat record. You'll see, Kollin isn't just talking to Qwa
24 Brown around this time. He's talking to two, three other
25 people and the very important one before he arrives at Mr.

1 Brown's apartment complex, he tells one of his friends "I'm
2 about to go re-up." "I am about to go re-up." Why is he
3 saying that? And where does he go? To the person who he told
4 you he had previously gotten marijuana from. That he had
5 previously gotten marijuana from. And it just doesn't end
6 there, ladies and gentlemen. After Mr. Brown has sustained
7 the gunshot, there is more chat information between
8 Kollin Worlds and his associates. Mr. Melvin Flores didn't
9 have access to his Snapchat account. He was in communication
10 with Qwa Brown. It was Kollin Worlds.

11 And I submit to you, ladies and gentlemen, you have
12 nothing independent of what she says or he says to say
13 Mr. Palma Flores' story is the true story or whether or not
14 Kollin Worlds and Laila Sheehy's story are the true story.
15 And that, ladies and gentlemen, in our system of justice is
16 the definition of reasonable doubt. Do you have a reasonable
17 basis to doubt what the government's charges are against this
18 man? And without any independent cooperation, ladies and
19 gentlemen, there has to be some doubt in your mind. You have
20 to be sitting here after hearing all the testimony wondering,
21 was it Palma Flores, or was it Kollin Worlds? Is Sheehy
22 credible? Is she telling the truth? Who's telling the truth?
23 God, I wish I had some physical evidence to back it up. Man,
24 if only there was a surveillance camera. If only an innocent
25 bystander was standing by and could identify who was the

1 shooter. If only his fingerprint had been found on a casing.
2 If only the murder weapon had been found. If only bullets
3 matching those used to end Mr. Brown's life had been found in
4 possession of anyone. And then maybe, ladies and gentlemen,
5 you could resolve those doubts in your mind.

6 And government says put Ms. Sheehy aside, put
7 Mr. Worlds aside. We understand -- honestly, he didn't say it
8 but I'll say it. We got some problems with these two. We got
9 some problems with these two. They used drugs, one of them,
10 admitted, got some mental health issues, clearly has some
11 issues with the defendant, clearly. I don't want -- they
12 don't want you to hang the case just on those two. So they
13 want you to look to Hector Flores. Well, this is his cousin;
14 why would he do that? Why would he say that? Mr. Flores pops
15 up on the scene approximately 19 months after the shooting and
16 killing. He doesn't call Detective Wallace within days,
17 within weeks, within months, within a year, a year-and-a-half,
18 19 months later. And he says at some unknown time, unknown
19 place, with no one else around, and no other way to
20 corroborate the conversation even existed, my cousin just said
21 to me, "I killed somebody." No reason. No motive. What did
22 he tell you how he was feeling when he heard about his name
23 being mentioned in Government's Exhibit 34?

24 He said, "I was concerned." "I was concerned that
25 law enforcement was going to get me involved in this. I

1 didn't want to be involved with this. I told them that Melvin
2 told me I killed somebody." And once I did that, all of my
3 concerns went away. No longer worried. I told them that
4 Melvin did it. I told them that Melvin told me that he killed
5 somebody, and all of my concerns were gone.

6 I'll close by spending some time on Government
7 Exhibit 34. And I agree with Mr. Ben'Ary; you got to read it.
8 You got to start from the top of page 1 and you got to go all
9 the way to the bottom of page 8. Mr. Ben'Ary has his
10 characterization of the portions, and I certainly have mine.
11 And we both have taken you through those segments, those bits
12 in which we believe support the government's theory and
13 supports the defense. As the Judge says, you're the judges of
14 the fact. And Mr. Palma Flores is not afraid of that.
15 Government counsel says, Why would an innocent person smuggle
16 a letter out, write a letter to his girlfriend, trying to
17 craft his defense, explaining what actually happened, making
18 sure that she rounds up witnesses, making sure that he has an
19 adequate defense? He told you.

20 See, for some people in our communities, law
21 enforcement, the criminal justice system is something to be
22 trusted. It's something that you can rely on. Law
23 enforcement are just here to serve everyone's interest to be
24 guided by the facts and see to it that the right people are
25 held accountable. And then there are others in our community

1 like Mr. Palma Flores told you. That's not his view of law
2 enforcement. No, when she first came to me, I lied. Why did
3 you lie, Mr. Palma Flores? I don't trust cops. I'm a young,
4 Hispanic male, and in my view, cops aren't really here to help
5 me. I'm concerned. I don't want to be involved. I lied. My
6 sister Jasmine, she lied, too. We both said, I was at home.
7 That wasn't true, Mr. Jenkins. It wasn't true. He told you
8 why. He told you he didn't want to get involved. He told you
9 he didn't trust them. He told you and he says it in the
10 letter. He doesn't trust his lawyer, who he's being
11 represented at that time. He doesn't trust the jail phone.
12 He doesn't trust the jailers who inspect his mail. He doesn't
13 want them to know what his defense is going to be at trial.
14 He said, They're not going to believe me. He says it in the
15 letter. That's why he wrote the letter. You don't have to
16 agree with him, you don't have to share his views. But is it
17 so unreasonable that those are his views? And why he did what
18 he did.

19 Ladies and gentlemen, suspicion, probability,
20 likelihood, none of that is enough to find someone guilty
21 beyond a reasonable doubt in our American system of justice.
22 You don't have to approve of how Mr. Palma Flores was good in
23 his life. You can disagree with him. You can even think ill
24 of how he was good in his life. But he deserves the same
25 protections of our constitution as every other citizen of whom

1 you might approve of. I ask you, ladies and gentlemen, apply
2 the law to the facts of this case and find my client not
3 guilty of Count 2. Thank you.

4 THE COURT: Rebuttal from the government.

5 MR. BEN'ARY: Thank you.

6 **REBUTTAL CLOSING ARGUMENT**

7 MR. BEN'ARY: Ladies and gentlemen, I'm going to be
8 brief and let you get to your deliberations here. And again,
9 the defendant's goal as stated in the letter was to cause
10 confusion in the court and find him not guilty, and that's
11 what you're seeing in this -- at this point of the trial.

12 Mr. Jenkins asked you to separate, I think, he said
13 the testimony of Laila, Kollin, and Hector. Okay, that's --
14 that's 3 out of 12 government witnesses. May as well separate
15 all of the government's case and then there's no evidence at
16 all. You can't separate and disregard, I would submit, their
17 testimony. You got to look at it in connection with one
18 another, in connection with what you know about human nature,
19 and again, the only thing that makes everything else in the
20 case that makes sense was that it was the defendant that is
21 responsible for this shooting.

22 Mr. Jenkins -- and if I'm -- if I misheard him, you
23 guys are the ones who judge the facts and credibility so I
24 apologize. But I think that Mr. Jenkins told you in the
25 arguments or suggested in the arguments just now that

1 Mr. Worlds came forward after Ms. Sheehy shared the letter
2 with him. And I want to talk quickly about the chronology of
3 events here.

4 Laila makes the 911 call, according to the defendant
5 in December 2019.

6 Government's Exhibit 15, if you want to pull that
7 up, please, Ms. Lee.

8 This is the proffer letter that gives Mr. Worlds
9 immunity from us, using his statements against him if they're
10 truthful is dated January 2020. Exhibit 34, the letter that
11 we've talked so much about, comes out months and months later
12 and later 2020 and the testimony was that Laila and Kollin
13 hook up New Year's Eve 2021, and in January 2021, she shares
14 the letter with Mr. Worlds. Mr. Worlds, I would submit, is
15 not accurate to his statement. He did not come forward with
16 information until after Ms. Sheehy shows him the letter. He
17 was dealing with the U.S. Attorney's Office and law
18 enforcement more than a year in January of 2020, and the
19 letter that was shared in January of 2021.

20 Could you pull up 48B quickly, please?

21 This is the chat log that we're talking about, and I
22 think it's on the second page of that message comes in, "I'm
23 going to re-up."

24 So again, it's your interpretation that controls,
25 but I would suggest to you -- okay. Message from Kollin

1 Worlds's Snapchat account to whoever this Marks2kj is. "No,
2 I'm about to go re-up right now."

3 And remember, this is UTC. One of our -- I think it
4 was Detective Wallace that told you, you got to subtract four
5 to get to Eastern Standard Time. So this comes in at --
6 what's 21 minus 4? It comes in 7 o'clock on 25th -- on the
7 25th. This is during the time when Kollin is going to meet up
8 but has not yet met up with Mr. Palma. So this isn't about
9 going to meet up with Qwa, I would suggest to you, this is
10 about Kollin going to meet up with Mr. Palma Flores, who has
11 just contacted him and said, Hey, let's go smoke. This is --
12 this before they are together, I would suggest to you, based
13 on the evidence you've heard. So I would suggest that it's
14 not probative of what Mr. Jenkins suggested to be probative
15 of.

16 All right. The motivation for Ms. Sheehy to make
17 the 911 call in December of 2019, Mr. Jenkins suggests is
18 because they've been in this fight and the defendant had
19 assaulted her. But remember back to her testimony, and she
20 was difficult to understand; she had the mask on. It was a
21 strain to listen and hear her testimony, but what I would
22 suggest, and it's your recollection that controls, but I would
23 suggest what she said was that fight happened because he had
24 found that she had looked up how to contact Fairfax County
25 Homicide. So it wasn't the fight that caused the motive. It

1 was the motive that caused the fight.

2 She wanted to call the police and tell them that it
3 was Melvin and Melvin beat her up. Not the other way around.

4 Let's see. Oh, Mr. Jenkins wants you to focus on
5 who was using the Snapchat account to contact Qwa Brown. And
6 I would suggest to you, ladies and gentlemen, that that is far
7 less important in your decision on this case than who used the
8 gun to shoot Qwa Brown. That's what we're here about. And
9 again, the evidence I would suggest to you points to one
10 person, and that is the defendant.

11 Mr. Jenkins says if only there was an innocent
12 bystander, if only there's someone who wasn't there who could
13 just tell us what happened here. Ladies and gentlemen, Hector
14 is an innocent bystander. Hector wasn't involved. Hector
15 wasn't involved. He was involved because the defendant
16 suggested that Laila go get him to lie. And so the police go
17 talk to him, he tells them similar to what he testified, I
18 believe, the testimony was. If Hector didn't want to be
19 involved and wanted to stay as far away as possible, wouldn't
20 Hector had told the police, I don't remember anything; I don't
21 want to talk to you; I don't want to be involved. That would
22 have been a way to get away from this case entirely. Hector
23 didn't want to get in trouble for providing false testimony
24 for obstructing justice, so he told -- I would suggest to
25 you -- he told the police the truth that the defendant burned

1 his clothes with his help and that some months after or some
2 weeks after he asked the defendant; the defendant admitted
3 that he did -- he conducted the shooting.

4 Ladies and gentlemen, again, read that letter
5 closely. I would submit to you it is not the letter of
6 someone who is trying to get the truth to come out. It is
7 someone who is trying to frustrate the legal process because
8 he understands he's in a lot of trouble. I would suggest to
9 you the evidence that supports convictions on all three
10 counts. Thank you.

11 THE COURT: Thank you.

12 Ladies and gentlemen of the jury, the matter has
13 been submitted to you for your deliberations. As I instructed
14 you earlier, your first order of business when you go back to
15 the deliberation room is to select a foreperson, and he or she
16 should make sure that the deliberations go forward in a
17 precise and orderly manner. There will be no deliberations
18 unless all members of the jury are present to participate in
19 the process.

20 Ladies and gentlemen, it's 3:30 now. I think that
21 after you select your foreperson, maybe if you could let us
22 know how long you want to go today and then the Court will
23 take that into consideration but again communicate through
24 Ms. Tinsley through a written note through your foreperson.
25 All right.

1 Ms. Armentrout.

2 THE DEPUTY CLERK: Juror Number 10, Teresa Doyle;
3 and Juror Number, 9 Obed Diaz, you all were selected as
4 alternate jurors.

5 THE COURT: Before you all leave during, let me
6 explain, during the course of the litigation, particularly
7 during the pandemic, we select a couple of people, and
8 depending on how long the trial was going to be, to be
9 alternates in the matter. That's if someone gets sick or we
10 have a circumstance that we cannot predict, we like to make
11 sure that we have some people who are able to participate in
12 the process, who have been full participants in the trial.
13 The fact that you were an alternate is no less important than
14 the other 12 individuals who are going to actually deliberate
15 in the case. Your time and attention was just as important,
16 but again, we had to select two alternates; they were done at
17 random, and so on behalf of the parties to the action in the
18 Eastern District of Virginia, I want to thank the two of you
19 for participating at this point.

20 Please do not discuss the case or any aspect of the
21 case with anyone because your service continues. If we have
22 the misfortune of having a juror not able to participate, we
23 will bring you back in and you will be part of the
24 deliberative process. So the instruction I've given you
25 continues to exist. If, as you leave, you could give

1 Ms. Tinsley your cell number or number where we can get in
2 contact you -- contact with you, that is much appreciated.
3 But again, we thank you for your participation and please
4 adhere to the rule that the Court has imposed throughout this
5 litigation. And once again, thank you. I'll go ahead and
6 release the two alternates right now.

7 Ms. Tinsley, if you could walk them out.

8 Ms. Doyle and Mr. Diaz. Thank you, ma'am. Thank
9 you, sir.

10 (Alternate jurors excused.)

11 THE COURT: Other than reading an hour of
12 instructions, that's the thing that I least like to do as a
13 judge in the case is dismiss people who have been attentive
14 and careful and responsible to their task as jurors, but now,
15 you are the 12 who will deliberate in this case. We will have
16 written copies for each of you of the instructions that I read
17 to the Court. If your first order of business could be to
18 select your foreperson, and then let us know how long you'd
19 like to stay today, that would be appreciated.

20 I would suggest that if you are intending on coming
21 back tomorrow, that a good time to be back would be 9:00 a.m.
22 I have other things on my docket that I'm going to do in
23 another courtroom, but I will be available, and you all are
24 the first priority of things that I will deal with tomorrow,
25 so just let us know what your intention is. We'll wait for

1 Ms. Tinsley to come back, and then we'll go ahead and have you
2 escorted out and bring you the instructions.

3 (A pause in the proceedings.)

4 THE COURT: People in the gallery, if you want to
5 leave, you may leave at this time.

6 Ladies and gentlemen, you can go with Ms. Tinsley
7 now.

8 (Jurors excused for deliberations at 3:36 p.m.)

9 THE COURT: All right. Thank you. Ladies and
10 gentlemen of the gallery, you can have a seat if you like.

11 Mr. Palma Flores, I need to ask you this question
12 again. I think I know the answer to the question. Are you
13 completely satisfied with the services of Mr. Jenkins?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Thank you, sir.

16 If you could, counsel, approach Mr. Golden and give
17 us your cell numbers or something that we can get in contact
18 with you.

19 Mr. Jenkins, what is your -- what is your plan, sir,
20 as far as being close, where are you going to go?

21 MR. JENKINS: Your Honor, you know, I keep a pretty
22 ambitious schedule. So I may have to appeal to the Court for
23 some assistance. I do have a matter in -- before the general
24 district court for Prince William County tomorrow afternoon.
25 My intent is to contact the Court and to explain that I am

1 otherwise occupied.

2 THE COURT: Mr. Jenkins, you're in a good position
3 because I have many friends and colleagues that sit on the
4 bench in the general district court of Prince William
5 County --

6 MR. JENKINS: I imagine so. I would imagine so.

7 THE COURT: -- some of whom are very reluctant to
8 get in my way, so.

9 MR. JENKINS: So if I'm at liberty to share that
10 information with them about why.

11 THE COURT: And who is the judge?

12 MR. JENKINS: I do not know because it's in the
13 general district court.

14 THE COURT: Okay.

15 MR. JENKINS: So I don't know who has been assigned
16 to. I imagine that it's been assigned to a courtroom at this
17 point.

18 THE COURT: Okay.

19 MR. JENKINS: But I don't know if I'll be able to
20 find the judge's name.

21 THE COURT: Once you are able to find the judge's
22 name, if there is an issue, just simply let me know. I think
23 I have every single one of them in my contacts, so I call them
24 up and let them know that -- your circumstance, and I don't
25 think --

1 MR. JENKINS: I will, Your Honor.

2 THE COURT: -- I'll get any pushback.

3 MR. JENKINS: Thank you, Your Honor. I appreciate
4 that.

5 THE COURT: Other than that, sir, where are you
6 going to be?

7 MR. JENKINS: I'm going to stay here.

8 THE COURT: Okay.

9 MR. JENKINS: I may go out to my car, which is in
10 the parking lot, but I believe the clerk has my cell number.

11 THE COURT: Okay. Mr. Ben'Ary, if you could
12 approach with that.

13 MR. BEN'ARY: We likely will go down to our office,
14 but cell numbers are always best in case we're wandering
15 around.

16 THE COURT: Give that to Mr. Golden. You may
17 approach Mr. Golden.

18 (Discussion off the record.)

19 THE COURT: Counsel, what we're going to do next is
20 have you approach and take a look at the exhibits so we can do
21 the exhibit review. Please be thorough as you go through that
22 to make sure. For the record, I can maybe read in what I
23 have, and we can work from there.

24 (Discussion off the record.)

25 THE COURT: Let me compliment both counsel on their

1 presentation of the case. It was a vigorous and zealous
2 prosecution. It was a vigorous and zealous defense. And it
3 is always a pleasure for this Court to have the ability of
4 good, young lawyers who are practicing before the Court who do
5 their job and understand the significance of what they do. So
6 on behalf of the judges of the Eastern District of Virginia, I
7 want to thank you for your presentations. Okay.

8 Is there anything else we need to do? Anything down
9 there? All right. Okay. Very good. Thank you.

10 THE BAILIFF: All rise. This court stands
11 adjourned.

12 (Recess.)

13 THE COURT: We're back on the record of United
14 States of America versus Melvin Palma Flores. Representatives
15 from the government are present as is Mr. Jenkins, who is
16 representing Mr. Flores. Mr. Flores has been brought back
17 over for Court to answer two questions from the jury.

18 For the record, I'll just read in the first thing
19 that we got back and by agreement counsel have allowed this to
20 be resolved without the necessity of everyone being here.

21 Jury's first question or first suggestion was, "We
22 have decided as a group we would like to come back fresh in
23 the morning," signed by the foreperson. The response by the
24 Court is, "That is fine. What time are you coming back?" And
25 the response by the foreperson is, "We will be here at

1 9 o'clock a.m."

2 All counsel have agreed that that communication was
3 appropriate to be conducted without Mr. Flores present.

4 Is that true, Mr. Jenkins?

5 MR. JENKINS: That is correct, Your Honor.

6 THE COURT: All right. Mr. Flores, did you have any
7 problem with that being done without you being here?

8 (Counsel and Defendant confers.)

9 THE DEFENDANT: That's fine.

10 THE COURT: Do you have any difficulty with that,
11 Mr. Flores?

12 THE DEFENDANT: No, Your Honor.

13 THE COURT: Thank you, sir.

14 More of a substantive question that came back in the
15 next response from the jury. "Would it be possible to have a
16 copy made of Exhibit 34 and 35 for each jury member?" I have
17 two proposals. Obviously, whatever you all want to do by
18 agreement is fine with me. The concern that I have initially
19 is that it brings unnecessary attention to one exhibit over
20 the other if we're making individual copies. And the second
21 concern that the Court has is if we make a copy of that, then
22 they are going to want individual copies of everything. I'll
23 listen to you all as to what you decide you want to do.

24 MR. BEN'ARY: Your Honor, the United States doesn't
25 have a problem with copies being made of those letters. I

1 think both sides agree that they are critical. So --

2 THE COURT: Mr. Jenkins.

3 MR. BEN'ARY: -- I think it would speed things along
4 and perhaps the Court could say, you know, copies --
5 individual copies won't be made of --

6 THE COURT: Well, that's what I was going to say.
7 If that was your agreement, I was going to say we can make
8 individual copies of each of these exhibits, but generally, we
9 cannot make individual copies of each of the exhibits.

10 MR. JENKINS: Well, yeah. And certainly, I
11 anticipated, and I think Mr. Ben'Ary did, too, that the jury
12 might have this request. I share the Court's concern about
13 them focusing in on one versus the other. If the Court's
14 position is going to be that they're not going to, in response
15 to any potential future request from them do likewise, that is
16 make 12 copies of everything else or any other selected
17 portions of exhibits they request, then I think the Court
18 should not honor this request. I think the Court should be
19 consistent with whatever you're going to do. So if they want
20 12 copies of Government Exhibit 47, the Snapchat, you know,
21 communications and the Court is not going to do that, then I
22 think the Court should not make 12 copies of this.

23 MR. BEN'ARY: The only additional point, Your Honor,
24 I would raise is that both parties during closings asked each
25 juror to read the entirety of the -- of the letter. So if

1 they're passing it around, it's going to take a few minutes.
2 So I think that does sort of set 34 and 35 apart from other
3 exhibits.

4 THE COURT: Well, I think the question might not be
5 as potentially sinister as we might think. I think that they
6 maybe just don't want to do it for health and safety
7 considerations, but that's neither here or there. What I'm
8 going to say is you must share Exhibit 34 consistent with
9 health and safety considerations.

10 And on the question, "Can we get a copy of the
11 transcripts?" The response I suggest is "You must use your
12 collective memories for review of the evidence."

13 MR. BEN'ARY: That's fine, Your Honor.

14 THE COURT: Mr. Jenkins.

15 MR. JENKINS: Yes, Your Honor. That's -- that's
16 acceptable.

17 THE COURT: All right. All right. Ms. Tinsley, if
18 you could take this back. And then once they read it,
19 retrieve it so that we can put it in the record and check with
20 them to make sure they don't have any more questions before --
21 just check with them and make sure they have -- they have no
22 more questions before they go for the day. Thank you.

23 MR. JENKINS: And, Your Honor, in the interim, is it
24 the Court's policy that counsel should be present at the time
25 in which the jury convenes in the morning?

1 THE COURT: No.

2 MR. JENKINS: Thank you.

3 THE COURT: What I was going to suggest to
4 Ms. Tinsley is that tomorrow when they come we'll make sure
5 that we have all 12 of them and that she puts them to where
6 they need to deliberate and let them start the day at
7 9 o'clock as opposed to bringing them back in, unless you want
8 me to make a separate inquiry of them at the beginning of the
9 day tomorrow, whether they were able to live up to the Court's
10 instructions not discuss the case or any aspect of the case
11 with anyone.

12 MR. JENKINS: Your Honor, I don't think that would
13 be a bad idea, but I don't think it's necessary for counsel
14 and Mr. Palma Flores to be present for that, if the Court is
15 inclined to --

16 THE COURT: So let me make sure I understand what
17 you're saying. You are agreeable to the Court welcoming them
18 tomorrow morning and inquiring as to whether they have lived
19 up to the Court's instruction without you or your client being
20 present.

21 MR. JENKINS: That is correct, Your Honor.

22 THE COURT: Do you have any problem with that,
23 Mr. Ben'Ary?

24 MR. BEN'ARY: No, Your Honor. I suspected one of us
25 will be here, but our office is here, so --

1 THE COURT: Okay.

2 MR. BEN'ARY: -- that's fine.

3 THE COURT: That's fine.

4 Mr. Palma Flores, is that agreeable to you?

5 MR. JENKINS: It is not. Mr. Palma Flores would
6 like to be here if the Court is going to address the jury. He
7 just informed me of that.

8 THE COURT: Okay.

9 MR. JENKINS: Yes.

10 THE COURT: So bring him back in, and I'll question
11 him.

12 Ms. Tinsley, make sure they don't have any more
13 questions before I let people go for the day.

14 (A pause in the proceedings.)

15 THE CSO: I want to make sure I know where they're
16 going to be. Are they coming back here?

17 THE COURT: They're coming back here because of the
18 request of Mr. Palma Flores. He wants to hear me ask them the
19 question as to whether they've lived up to the Court's
20 instruction.

21 THE CSO: Okay. (Indiscernible) question. So are
22 --

23 THE COURT: Unless they've got another question.

24 THE CSO: They don't have any more question that's
25 why I asked.

1 THE COURT: All right. Ladies and gentlemen, I
2 think we're done for the day, and we'll see you at 9 o'clock.
3 We've got your cell phone numbers, so that we can contact you
4 as quickly as we can. As we've seen earlier in the day, some
5 of the jurors are not as prompt as others, so when they all
6 are available, we'll give you a buzz within 10 or 15 minutes.
7 I'll also let you know that I'm running another docket
8 tomorrow, so I'll be running back and forth between the two
9 courtrooms. I'm going to keep everything as it is in this
10 courtroom and conduct the other docket in courtroom 601.

11 MR. JENKINS: Thank you, Your Honor.

12 THE COURT: All right. Thank you.

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14 **(Proceedings adjourned at 4:36 p.m.)**
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CERTIFICATE OF REPORTER

I, Tonia Harris, an Official Court Reporter for the Eastern District of Virginia, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had and testimony adduced upon the Jury Trial in the case of the **UNITED STATES OF AMERICA versus MELVIN PALMA FLORES**, Criminal Action No.: 1:20-cr-142, in said court on the 15th day of December, 2021.

I further certify that the foregoing 177 pages constitute the official transcript of said proceedings, as taken from my machine shorthand notes, my computer realtime display, together with the backup tape recording of said proceedings to the best of my ability.

In witness whereof, I have hereto subscribed my name, this June 9, 2023.



Tonia M. Harris, RPR
Official Court Reporter